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# ILLINOIS

## REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 24, Issue 50  
December 08, 2000

Pages 17,704 – 17,871

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**December 8, 2000**

**Volume 24**

**Issue #50**

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EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000

Issue 29 - July 14, 2000: Data Through June 30, 2000

Issue 42 - October 13, 2000: Data Through September 30, 2000

Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

### REGISTER PUBLICATION SCHEDULE 2000

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 27, 1999	January 7, 2000	Issue 28	June 26	July 7
Issue 2	January 4, 2000*	January 14	Issue 29	July 3	July 14
Issue 3	January 10	January 21	Issue 30	July 10	July 21
Issue 4	January 18*	January 28	Issue 31	July 17	July 28
Issue 5	January 24	February 4	Issue 32	July 24	August 4
Issue 6	January 31	February 14**	Issue 33	July 31	August 11
Issue 7	February 7	February 18	Issue 34	August 7	August 18
Issue 8	February 14	February 25	Issue 35	August 14	August 25
Issue 9	February 22*	March 3	Issue 36	August 21	September 1
Issue 10	February 28	March 10	Issue 37	August 28	September 8
Issue 11	March 6	March 17	Issue 38	September 5*	September 15
Issue 12	March 13	March 24	Issue 39	September 11	September 22
Issue 13	March 15	March 26	Issue 40	September 18	September 29
Issue 14	March 20	March 31	Issue 41	September 25	October 6
Issue 15	March 27	April 7	Issue 42	October 2	October 13
Issue 16	April 3	April 14	Issue 44	October 10*	October 20
Issue 17	April 10	April 21	Issue 43	October 16	October 27
Issue 18	April 17	April 28	Issue 44	October 23	November 3
Issue 19	April 24	May 5	Issue 45	October 30	November 13**
Issue 20	May 1	May 12	Issue 46	November 6	November 17
Issue 21	May 8	May 19	Issue 47	November 13	November 27**
Issue 22	May 15	May 26	Issue 48	November 20	December 1
Issue 23	May 22	June 2	Issue 49	November 27	December 8
Issue 24	May 30*	June 9	Issue 50	December 4	December 15
Issue 25	June 5	June 16	Issue 51	December 11	December 22
Issue 26	June 12	June 23	Issue 52	December 18	December 29
Issue 27	June 19	June 30	Issue 1	December 26*	January 5, 2001

\* Tuesday 12 noon deadline following a state holiday.

\*\* Monday publication date following a state holiday.

Printed by authority of the State of Illinois  
December 2000 - 675 - GA-576

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

- 1) Heading of the Part: Illinois Heritage Grants Program

- 2) Code Citation: 17 Ill. Adm. Code 411

- 3) Section Numbers:

4111.10	New
4111.20	New
4111.30	New
4111.40	New
4111.50	New
4111.60	New
4111.70	New
4111.80	New
4111.90	New
4111.100	New

- 4) Statutory Authority: Section 16 of the Historic Preservation Agency Act [20 ILCS 3405/16]

- 5) A Complete Description of the Subjects and Issues Involved: The proposed rule prescribes the process by which the public applies for and receives matching funds for the restoration and rehabilitation of designated historic landmarks and prescribes how the Historic Preservation Agency will administer the program.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? Yes

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: Units of local government may be affected if they choose to apply for a grant. No State mandate is created because the program is voluntary.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments in writing may be sent to:

Theodore Hild  
Preservation Services Division  
Illinois Historic Preservation Agency  
One Old Capital Plaza  
Springfield, Illinois 62704  
Telephone: (217)785-4996  
Fax: (217)524-7525

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance:  
None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The agency did not anticipate the need for the rulemaking.

The full text of the Proposed Rule begins on the next page:

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

CHAPTER VI: CONSERVATION  
TITLE 17: CONSERVATION  
ILLINOIS HISTORIC PRESERVATION AGENCYPART 4111  
ILLINOIS HERITAGE GRANTS PROGRAM

Section	Authority - Applicability of this Part
4111.10	Definitions
4111.20	Administration
4111.30	Eligibility
4111.40	Application Process
4111.50	Application Contents
4111.60	Disbursement of Funds
4111.70	Approval of Work
4111.80	Funding Limitation
4111.90	Project Completion
4111.100	

AUTHORITY: Authorized by and implementing Section 16(r) of the Historic Preservation Agency Act [20 ILCS 3405/16]

(Source: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 4111.10 Authority - Applicability of this Part

- This Part is promulgated pursuant to Section 16(r) of the Illinois Historic Preservation Agency Act [20 ILCS 3405].
- This Part shall govern the administration of the Illinois Heritage Grants Program of the Illinois Historic Preservation Agency, including the qualifications of grantees, awarding grants, the grantee application process and the disbursement of grant funds appropriated for the purpose of the Illinois Heritage Grants Program.
- This Part shall not govern any other grant programs conducted by the Agency.

## Section 4111.20 Definitions

"Agency" means the Illinois Historic Preservation Agency.

"Director" means the Director of the Illinois Historic Preservation Agency.

"Grantee" means the person or entity that receives and is responsible for the grant funds.

"Landmark ordinance" means an ordinance of county or municipal government for which the intended purpose is the designation of

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

## historic landmarks.

"National Register of Historic Places" means the register of districts, sites, buildings, structures and objects significant in American history, architecture, engineering, archaeology and culture maintained by the United States Secretary of the Interior as authorized by the National Historic Preservation Act of 1966 (16 USC 470), as amended, and implemented in 36 CFR 60.

"Planning" means the process that determines how a property should be treated. Planning activities may include the preparation of plans and specifications for construction projects.

"Pre-construction" and "non-construction" means architectural and engineering services, archaeological services, building permits, project signs, and bidding costs that are directly related to the project.

"Reconstruction" means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, buildings, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

"Rehabilitation" means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

"Restoration" means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

"Secretary of the Interior's Standards for the Treatment of Historic Properties" means those historic preservation design standards provided in 36 CFR 68.

"Survey" means the process of determining the existing and past conditions of a property.

## Section 4111.30 Administration

- This program shall be entitled the Illinois Heritage Grants Program.



## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

- b) The Preservation Services Division of the Illinois Historic Preservation Agency shall administer the program.

## Section 4111.40 Eligibility

- a) Eligible applicants are owners of property that:
- 1) is individually listed in the National Register of Historic Places;
  - 2) contributes to the character of a historic district listed in the National Register of Historic Places;
  - 3) is designated a landmark under a county or municipal landmark ordinance; or
  - 4) is within a historic district designated under a county or municipal landmark ordinance where the Director determines that the property contributes to the character of the historic district.
- b) Eligible applicants may be agents of the property owner when they have written permission from the owner of record.
- c) Eligible activities for Illinois Heritage Grants Program funding include planning, survey, non-construction activities, pre-construction activities, rehabilitation, restoration, reconstruction and landscaping for structures and archaeological sites.

## Section 4111.50 Application Process

- a) The Agency shall produce and make available to the public an application for awarding grant funds.
- b) Deadlines for the receipt of applications from qualified applicants shall be set by the Agency to occur not less than once in each fiscal year for which funds are appropriated.
- c) The Agency shall give eligible applicants adequate notice of the availability of grant funds through Agency publications, press releases, mailings, or publication in the state newspaper.
- d) The Agency shall set evaluation standards by which grant funds will be awarded. These standards shall reflect current statewide historic preservation conditions and may be changed from time to time to reflect changes in the State's historic preservation needs.
- e) The staff of the Preservation Services Division will evaluate applications. The Director may select individuals with demonstrated experience in historic preservation who are employed by neither the Agency nor State government to evaluate applications.
- f) Grant funds will be awarded to applicants whose applications receive the highest evaluations. The Director may award funds to eligible projects when those awards are in the best interests of the property.

## Section 4111.60 Application Contents

- a) Prior to the final payment of grant funds, the grantee shall execute a

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

- a) Applications for Illinois Heritage Grants shall include, but not be limited to:

- 1) Name of the proposed grantee.
  - 2) Name and address of the property that is to be the object of the grant.
  - 3) Photographs of the property depicting the property generally and that portion of the property that will be affected by work undertaken as a result of the grant.
  - 4) Map of a scale sufficient to locate the property.
  - 5) Statement of ownership.
  - 6) Statement indicating the availability of matching funds.
  - 7) Project schedule.
  - 8) Project budget.
  - 9) Project description.
- b) The Agency shall determine whether the information in subsection (a) is provided sufficiently in the application. In particular, the Agency will determine whether the proposed project description meets the United States Secretary of the Interior's Standards for Treatment of Historic Properties. The Agency may reject an incomplete, incorrect or insufficient application based on the applicant's failure to provide the information in subsection (a).
- c) All projects must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties as determined by the Agency.

## Section 4111.70 Disbursement of Funds

Disbursement of grant funds from the Agency to the grantee will be on a reimbursement basis, when the grantee provides the Agency with documentation of expenditures in a manner prescribed by the Agency.

## Section 4111.80 Approval of Work

Grantees shall not initiate any work on the proposed project without the Agency's written approval. Project costs for work undertaken without written approval shall not be eligible for reimbursement. The Agency may cancel a grant and withhold unexpended funds and may recover funds already disbursed for unapproved work.

## Section 4111.90 Funding Limitation

- a) The Agency shall provide no more than 60% of the entire amount of actual expenditures of a single project.
- b) No single grant shall exceed \$50,000.
- c) No grantee shall be awarded more than one grant in each fiscal year.

## Section 4111.900 Project Completion

## ILLINOIS HISTORIC PRESERVATION AGENCY

## NOTICE OF PROPOSED RULE

convenant on the property to protect the right of the State in the improvement of the property funded by the grant for a period of five years for awards of \$25,000 or less and for a period of ten years for awards greater than \$25,000.

b) A project will be considered completed when the Agency accepts a final completion report that includes, but is not limited to, a narrative statement from the grantee describing and evaluating the project, cancelled checks, paid receipts, lien waivers, audit reports or whatever financial documentation the Agency may require.

c) The Agency may withhold final payment until a final completion report has been accepted.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Child Labor Law

2) Code Citation: 56 Ill. Adm. Code 250

3) Section Numbers: 350.302  
Proposed Action: New Section

4) Statutory Authority: Implementing and authorized by Section 8.1(a) of the Child Labor Law [820 ILCS 205/8.1(a)].

5) A Complete Description of the Subjects and Issues Involved: Section 8.1(a) of the Child Labor Law [820 ILCS 205/8.1(a)] charges the Department of Labor with the duty to write rules imposing reasonable conditions for the employment of minors under 16 years of age in television, motion pictures, or related entertainment productions. This proposed amendment mirrors the regulatory standards of Illinois' sister states, such as California, New York and Michigan.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
250.715	Amend	24 Ill. Reg. 13494, Sept. 8, 2000

10) Statement of Statewide Policy Objectives: This rulemaking imposes mandates on units of local government to the extent that they employ minors under 16 years of age in television, motion pictures, or related entertainment productions.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

William Rolando, Deputy Director  
Illinois Department of Labor  
One West Old State Capitol Plaza, Room 300  
Springfield, Illinois 62701  
(217)782-1704 (telephone)  
(217)782-0596 (telefax)

A public hearing is scheduled on:

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

January 16, 2001, at 1:00 P.M.  
 Illinois Department of Labor  
 160 North LaSalle Street, Suite C-1300  
 Chicago, Illinois 60601

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The rulemaking affects all employers or other persons subject to the Act that are also a small business, small municipality, or a not for profit corporation as defined by the Illinois Administrative Procedure Act that employ minors under 16 years of age in television, motion pictures, or related entertainment productions.

B) Reporting, bookkeeping or other procedures required for compliance:  
 None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was unanticipated at the time.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears on page 17711 of this issue of the Illinois Register.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:  
100.2165 Amendment
- 4) Statutory Authority: 35 ILCS 5/1401
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends 86 Ill. Adm. Code 100.2165, dealing with the education expense credit, to eliminate a provision that erroneously states that failure to attach documentation supporting the credit claimed on a return will cause the return to be unprocessable for purposes of applying penalties under the Uniform Penalty and Interest Act. The Uniform Penalty and Interest Act [35 ILCS 735/3-2(d)] provides that failure to include in a return schedules or information necessary to determine the tax due will cause the return to be unprocessable. As provided in Section 100.2165(e), failure to attach documentation supporting the education expense credit will result in a determination of tax due without allowing the credit. Because a determination of tax due can be made, such failure will not cause the return to be unprocessable.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
100-5130	Amendment	07/28/00, 24 Ill. Reg. 11188
100-2470	Amendment	08/04/00, 24 Ill. Reg. 11582
100-2330	Amendment	08/11/00, 24 Ill. Reg. 11778
100-9530	New Section	08/18/00, 24 Ill. Reg. 12445
100-5040	New Section	11/03/00, 24 Ill. Reg. 16218
100-5130	New Section	12/01/00, 24 Ill. Reg. 17496
100-5250	Amendment	11/13/00, 24 Ill. Reg. 16555
100-9000	Amendment	11/13/00, 24 Ill. Reg. 16555
100-9100	Amendment	11/13/00, 24 Ill. Reg. 16555

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

rule may submit them in writing by no later than 45 days after publication of this notice to:

Paul Caselton  
Deputy General Counsel - Income Tax  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217)782-7055

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

## 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER 1: DEPARTMENT OF REVENUE

PART 100  
INCOME TAX

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Net Income (IITA Section 202)

## SUBPART B: CREDITS

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Replacement Tax Investment Credit (IITA 201(e))  
Investment Credit; Enterprise Zone (IITA 201(f))  
Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
Investment Credit; High Impact Business (IITA 201(h))  
Credit Against Income Tax for Replacement Tax (IITA 201(i))  
Training Expense Credit (IITA 201(j))  
Research and Development Credit (IITA 201(k))  
Education Expense Credit (IITA 201(m))  
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.. OCCURRING PRIOR TO DECEMBER 31, 1986

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Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope

100.2210

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

100.2220

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100.2230

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

## DEPARTMENT OF REVENUE

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## NOTICE OF PROPOSED AMENDMENTS

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100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

100.2280 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

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100.3020 Resident (IITA Section 301)

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

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100.2310 Computation of the Illinois Net Loss Deduction  
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## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

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 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns  
 100.5205 Election to File a Combined Return  
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 100.7000 Requirement of Withholding (IITA Section 701)  
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Section  
 100.7100 Withholding Exemption (IITA Section 702)  
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## SUBPART S: INFORMATION STATEMENT

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Section  
 100.7300 Returns of Income Withheld from Wages (IITA Section 704)  
 100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)  
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 100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)  
 100.7340 Correction of Under withholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

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 100.9000 General Income Tax Procedures (IITA Section 901)  
 100.9010 Collection Authority (IITA Section 901)  
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## SUBPART V: NOTICE AND DEMAND

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## SUBPART W: ASSESSMENT

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Section  
 100.9300 Deficiencies and Overpayments (IITA Section 904)



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100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)  
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 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART Y: CREDITS AND REFUNDS

Section  
 100.9400 Credits and Refunds (IITA Section 909)  
 100.9410 Limitations on Claims for Refund (IITA Section 911)  
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Section  
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 100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)  
 100.9510 Taxpayer Representation and Practice Requirements  
 100.9520 Conduct of Investigations and Hearings

## SUBPART AA: JUDICIAL REVIEW

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 100.9600 Administrative Review Law (IITA Section 1201)

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Section  
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Section  
 100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents  
 TABLE A Example of Unitary Business Apportionment  
 TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 P. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537,

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effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. Reg. 9704, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2324, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: CREDITS

Section 100.2165 Education Expense Credit (IITA 201(m))

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- a) *Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of Section 201 of the Act for qualified education expenses incurred on behalf of the qualifying pupils (the "education expense credit"). The education expense credit shall be equal to 25% of qualified education expenses, but the total education expense credit allowed to a family that is the custodian of qualifying pupils shall not exceed \$500 in any tax year, regardless of the number of qualifying pupils. The education expense credit taken shall not reduce a taxpayer's liability under the Act to less than zero. (IITA Section 201(m)). Therefore, no part of the education expense credit is refundable to the custodian in the event the custodian's tax liability is reduced to zero.*
- b) *For a taxpayer to claim the education expense credit, the taxpayer must be the custodian of one or more qualifying pupils and have incurred qualified education expenses on behalf of the qualifying pupils.*

1) *"Qualifying pupils" shall mean individuals that are:*

- A) *residents of the State of Illinois;*
- B) *under the age of 21 at the close of the school year for which a credit is sought, and*
- C) *full time pupils enrolled in a kindergarten through twelfth grade education program at any school during the school year for which a credit is sought (IITA Section 201(m)).*
- An individual under the age of 21 and graduating from the twelfth grade during a school year shall be considered a qualifying pupil for the year but only to the extent of qualified education expenses incurred by the custodian due to the qualifying pupil's enrollment in the twelfth grade.

2) *"Custodian" of qualifying pupils shall mean an Illinois resident(s) who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils (IITA Section 201(m)).*

- A) *A foster parent, or the foster parents, or an adoptive parent, or the adoptive parents shall be included within the meaning of parent or legal guardian for purposes of determining the custodian of qualifying pupils.*
- B) *Custodian shall not include a parent or the parents of qualifying pupils whose parental rights over such qualifying pupils have been legally terminated.*
- C) *The custodian must actually incur qualified education expenses in order to claim the education expense credit. Therefore, a custodian incurring qualified education expenses on behalf of qualifying pupils shall claim the education expense credit only to the extent of qualified education expenses actually paid for by that custodian. The education expense credit claimed shall not exceed the \$500 credit limit allowable to a family that is the*

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custodian of qualifying pupils. Therefore, the divorced or unmarried parents of qualifying pupils, each of whom is the custodian of the qualifying pupils and each of whom incurs education expenses on behalf of such pupils, shall be considered the family of such qualifying pupils for purposes of the \$500 credit limit.

- 3) *"School", for purposes of the education expense credit, means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code (105 ILCS 5/26-1), except that nothing shall be construed to require a child to attend any particular public or nonpublic school in order to qualify for the education expense credit (IITA Section 201(m)). Schools that are not required to be in compliance with the Title VI of the Civil Rights Act of 1964 but attendance at which meets the compulsory education requirements of Section 26-1 of the School Code are included within the meaning of "school" for purposes of the education expense credit. Private schools providing educational instruction in the home, attendance at which meets the compulsory education requirements of Section 26-1 of the School Code, are included within the meaning of "school" for purposes of the education expense credit.*

- 4) *"Qualified education expenses" shall mean amounts incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at the school in which the qualifying pupil is enrolled during the regular school year (IITA Section 201(m)). Amounts incurred for tuition, book fees and lab fees by a family that is the custodian of more than one qualifying pupil may aggregate all tuition, book fees and lab fees incurred by the family in arriving at qualified education expenses eligible for the credit.*

- A) *Tuition is the amount paid to a school as a condition of enrollment for a quarter, semester or year term in a kindergarten through twelfth grade education program of the school. Enrollment in an education program shall mean admission to the full and regular schedule of classroom instruction of the school during the designated period. Tuition also includes amounts paid as a condition of implementing on behalf of a school to cover costs of enrolling and administering an education program.*
- B) *Book fees are amounts paid for the use of books that are essential to a qualifying pupil's participation in the education program of the school. A book is essential when the school or an instructor of the school requires its use by the qualifying pupil in order to participate in and complete a course of the education program.*
- C) *Lab fees are amounts paid for the use of supplies,*

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equipment, materials or instruments that are essential to a qualifying pupil's participation in a lab course of the school's education program. Supplies, equipment, materials or instruments are essential when the school or an instructor of the school requires their use by a qualifying pupil in order to participate in and complete a lab course of the education program. Lab courses include those courses that, in addition to classroom instruction by a teacher, provide an environment of organized activity involving observation, experimentation or practice in a course of study. Such courses of study include those courses with a scientific, musical, artistic, technical or language skill content. Lab fees may be in the nature of a rental fee for supplies, equipment, materials or instruments that are used in the lab course. Fees incurred for the purchase of supplies, equipment, materials or instruments used in a lab course and which are substantially consumed by assignments and activities of the lab are also considered qualifying lab fees.

Any amount paid for the purchase of items that would be considered qualified education expenses but for the fact that the items are not substantially consumed during the school year and will remain the tangible personal property of a qualifying pupil or a custodian at the conclusion of the school year shall not be considered qualified education expenses. For purposes of this Section, an item is substantially consumed when, during the school year, the item is used to such an extent that its fair market value has been reduced to a de minimis amount.

c) Examples. Calculation of the education expense credit may be illustrated by the following examples:

- 1) Example 1. Family A is the custodian of two qualifying pupils. Family A incurs a total of \$6,000 in tuition, book fees and lab fees for the education of both pupils during the calendar year. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$5,750 (\$6,000 - \$250) multiplied by 25% equals \$1,437.50. Family A may only claim the maximum tax credit allowable of \$500.
- 2) Example 2. Family B is the custodian of one qualifying pupil. Family B incurs a total of \$2,250 in tuition, book fees and lab fees for the education of the qualifying pupil during the calendar year. Family B also incurs \$200 for the purchase of a musical instrument used by the qualifying pupil while participating in the school band. The \$200 incurred for the purchase of a musical instrument is an expense that does not qualify for the credit. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$2,000 (\$2,250-\$250) multiplied by 25% equals \$500. Family B may claim the entire maximum tax credit

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allowable of \$500.

- 3) Example 3. Family C is the custodian of four qualifying pupils. Family C incurs a total of \$1,000 in book fees and lab fees for the education of all four qualifying pupils during the calendar year. Family C also incurs a total of \$50 for the purchase of books used in completing book reports required by the school. The \$50 incurred for the purchase of books is an expense that does not qualify for the credit. The first \$250 incurred for book fees and lab fees is not included as a qualified education expense. The balance of \$750 (\$1,000 - \$250) multiplied by 25% equals \$187.50. Family C may claim a tax credit of \$187.50.
- d) To aid a custodian in claiming the education expense credit, a school should provide to the custodian a written receipt documenting education expenses paid to the school by the custodian on behalf of qualifying pupils during the calendar year. The written receipt should be provided to the custodian on or before January 31 of the succeeding calendar year. Where a school provides a written receipt to a custodian, it shall be a receipt prescribed by the Department which shall include the following information:
  - 1) the designated calendar year during which the education expenses were paid,
  - 2) the name and address of the school,
  - 3) the name and address of the custodian,
  - 4) the name(s) and social security number(s) of the qualifying pupil or pupils,
  - 5) a list of education expense amounts paid for tuition, book fees and lab fees during the calendar year, and
  - 6) the total of all such education expenses paid during the calendar year. All information contained on the written receipt provided by a school is deemed confidential information for use as supporting documentation of the education expense credit claimed and shall not be used for any other purpose.
- e) A custodian shall use a school's written receipt of education expenses as documentation supporting the education expense credit claimed on the custodian's individual income tax return. A copy of the written receipt shall be filed with the return for the taxable year to which it relates. In the event a school's written receipt of education expenses is not made available to a custodian, the custodian shall complete and file with the custodian's return the schedule prescribed by the Department for taking the credit. The education expense credit shall not be taken without either a school's written receipt or a schedule being filed with the return. A return claiming the credit and filed without a school's written receipt or without the Department's prescribed schedule shall be deemed unprocessable for purposes of the application of penalties and interest under the Uniform Penalty and Interest Act (35c-106S-935).
- f) A custodian filing a return claiming the education expense credit shall maintain records of proof as to the education expenses paid for

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SECTION 1

by the custodian. The custodian shall maintain the records for a period of one year after the date the return on which the custodian claimed the education expense credit was filed. Such records maintained by the custodian shall be subject to inspection by the department and its duly authorized agents and employees. The education expense credit for qualified education expenses incurred but not claimed on the tax year in which the qualified education expenses are actually paid. Any part of the education expense credit earned or paid on any other tax year shall not be carried forward or back to any other tax year. Likewise, where qualified education expenses are incurred in excess of the allowable education expense credit for any given tax year, the excess of qualified education expenses shall not be used in claiming the education expense credit for any other tax year.

Effective date: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Corridors of Opportunity Program
- 2) Code Citation: 14 Ill. Adm. Code 630
- 3) 

<u>Section Number:</u>	<u>Adoption Action:</u>
630.10	Repealer
630.20	Repealer
630.30	Repealer
630.40	Repealer
630.50	Repealer
- 4) Statutory Authority: Implementing the Corridors of Opportunity and Development Act (Ill. Rev. Stat. 1987, ch. 127, pars. 3401 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.42).

5) Effective Date of Repealer: November 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: Published at 24 Ill. Reg. 8658 on June 30, 2000

10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: No change between the proposal and final version.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.

13) Will this repealer replace emergency repealers currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: The rules pertain to the encouraged and supported regional cooperation in economic development planning by providing opportunities for matching grants. The program has not received funding for the past 5 years and, consequently, has not had the rules updated. The repealer is in the public interest because the rules are obsolete and the program is no longer being funded. Funding for this



## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED REPEALER

program is not anticipated in future years.

- 16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Raya Bogard  
Administrative Code Rules Manager  
Illinois Department of Commerce and Community Affairs  
James R. Thompson Center  
100 West Randolph, Suite 3-400  
Chicago IL 60601  
(312) 814-9593

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: County Economic Development Project Area Property Tax Allocation Financing

- 2) Code Citation: 14 Ill. Adm. Code 526

- 3) Section Number:  
526.10 Repealer  
526.20 Repealer  
526.30 Repealer  
526.40 Repealer  
526.50 Repealer  
526.60 Repealer  
526.70 Repealer  
526.80 Repealer  
526.90 Repealer

Adoption Action:

Repealer  
Repealer  
Repealer  
Repealer  
Repealer  
Repealer  
Repealer  
Repealer  
Repealer

- 4) Statutory Authority: Implementing the County Economic Development Project Area Property Tax Allocation Act (Ill. Rev. Stat. 1991, ch. 34, pars. 7001 et seq.) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1991, ch. 127, par. 46.42).

- 5) Effective Date of Repealer: November 27, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: Published at 24 Ill. Reg. 8671 on June 30, 2000

- 10) Has JCAR issued a Statement of Objection to this repealer? No. However, JCAR did issue a Recommendation with respect to this rulemaking.

- 11) Differences between proposal and final version: No change between the proposal and final version.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? The Recommendation made by JCAR will require the Department to initiate legislation repealing the statutes that created the County Economic Development Project Area Property Tax Allocation Financing Act.

- 13) Will this repealer replace emergency repealers currently in effect? No

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED REPEALER

1. Are there any amendments pending on this Part? No

**2. Summary and Purpose of Repealer:** The rules pertain to the certification of an economic development district to enable a county to offer economic incentives required to attract or retain large-scale industrial or commercial facilities in the State. The rule is outdated and obsolete. The Department no longer runs this program, and the rules no longer apply. This repealer is in the public interest because the proposed rules ask to make the designations sunset.

**Information and questions regarding this adopted repealer shall be referred to:**

Ms. Patsy B. Gard

Administrative Code Rules Manager

Illinois Department of Commerce and Community Affairs

James R. Thompson State

100 West Randolph, Suite 3-400

Chicago IL 60601

(312) 827-2222

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED REPEALER

- 1) **Heading of the Part:** Economic Development Area Tax Increment Allocation Financing

- 2) **Code Citation:** 14 Ill. Adm. Code 525

- 3) **Section Number:** Adoption Action:  
 525.10 Repealer  
 525.20 Repealer  
 525.30 Repealer  
 525.40 Repealer  
 525.50 Repealer  
 525.60 Repealer  
 525.70 Repealer  
 525.80 Repealer

- 4) **Statutory Authority:** Implementing the Economic Development Area Tax Increment Allocation Act (P.A. 86-38, effective July 12, 1969) and authorized by Section 46.20 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.20).

- 5) **Effective Date of Repealer:** November 27, 2000

- 6) **Does this rulemaking contain an automatic repeal date?** No

- 7) **Does this repealer contain incorporations by reference?** No

- 8) **A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

- 9) **Notice of Proposal Published in Illinois Register?** Published at 24 Ill. Reg. 8678, on June 30, 2000

- 10) **Has JCAR issued a Statement of Objection to this repealer?** No. However, JCAR did issue a Recommendation with respect to this rulemaking.

- 11) **Differences between proposal and final version:** No change between the proposal and final version.

- 12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** The Recommendation made by JCAR will require the Department to initiate legislation repealing the statutes creating the Economic Development Area Tax Increment Allocation Act.

- 13) **Will this repealer replace emergency amendments currently in effect?** No

- 14) **Are there any amendments pending on this Part?** No

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED REPEALER

15) Summary and Purpose of Repealer: The rules pertain to the certification of an economic development district to enable a municipality to offer development incentives required to attract or retain large scale industrial or commercial facilities in the State. The rules have not been used since FY90, and the program has not been run by the Department since then. This repealer is in the public interest because the rules are obsolete.

16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Rava Bogard  
Administrative Code Rules Manager  
Illinois Department of Commerce and Community Affairs  
James R. Thompson Center  
100 West Randolph, Suite 3-400  
Chicago, IL 60601  
(312) 814-9593

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Comparable Benefits
- 2) Code Citation: 89 Ill. Adm. Code 567
- 3) Section Numbers: 567.20  
Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 3(a),(b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)], 29 USC 721(a)(8), and 34 CFR 361.47(b).
- 5) Effective Date of Amendment: November 27, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 14, 2000, 24 Ill. Reg. 10032
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Rulemaking: This rulemaking amends the definition of Comparable Benefits to require customers to make formal application for financial assistance when they are requesting DHS-QRS to pay for training. The rulemaking also requires customers to apply for Medicaid under specific conditions. The customer's eligibility or ineligibility for these benefits will in no way effect the delivery of VR services by ORS.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

DEPARTMENT OF HUMAN SERVICES  
NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF HUMAN SERVICES  
NOTICE OF ADOPTED AMENDMENTS

Mr. Susan Wall, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
Telephone number: (217) 785-9772

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 567  
COMPARABLE BENEFITS

Section	General Applicability
567.10	Definition of Comparable Benefits
567.20	Exceptions to Comparable Benefits
567.30	Refusal of Comparable Benefits

AUTHORITY: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act (20 ILCS 2405/3(a), (b) and (k)), 29 USC 721(a)(8), and 34 CFR 361.47(b).

SOURCE: Adopted at 9 Ill. Reg. 8839, effective June 10, 1985; amended at 11 Ill. Reg. 820, effective December 23, 1986; amended at 12 Ill. Reg. 3019, effective January 15, 1988; amended at 13 Ill. Reg. 9590, effective June 12, 1989; amended at 13 Ill. Reg. 18933, effective November 16, 1989; amended at 15 Ill. Reg. 6617, effective April 18, 1991; amended at 17 Ill. Reg. 149, effective December 18, 1992; emergency amendment at 17 Ill. Reg. 11696, effective July 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20375, effective November 15, 1993; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 1381, effective January 14, 1999; emergency amendment at 24 Ill. Reg. 10358, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 3333, effective \_\_\_\_\_.

Section 567.20 Definition of Comparable Benefits

- a) A comparable benefit is a service that is available at the time the service is needed by a customer and is used to determine eligibility (89 Ill. Adm. Code 553) or to achieve the vocational goal and objectives specified in the customer's Individualized Plan for Employment (IPE) Written-Rehabilitation-Program (89 Ill. Adm. Code 574) that, when provided to DHS-ORS customers by public or private agency or agencies other than DHS-ORS, offset costs which would otherwise be paid by DHS-ORS or the customer.
- b) When a customer is requesting DHS/ORS to cover training related services, except for those services that are exempt from financial participation (89 Ill. Adm. Code 562.30) for post-secondary education, the customer shall make formal application and provide proof (or denial) of financial award and the amount of the award before the IPE for post-secondary training can be implemented. An IPE for service to prepare and assist the customer in applying for comparable benefits may be developed at any time. Failure of the customer to apply for

The full text of adopted amendment begins on the next page:



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comparable benefits shall result in the denial of services (89 Ill. Adm. Code 567.100).

c) Customers requesting medical services or physical restoration services, or who are requesting long term training (training expected to last in excess of 24 months) shall apply for Medicaid benefits. Eligibility, or ineligibility, for Medicaid benefits shall not, in any way, affect the eligibility for Vocational Rehabilitation services from DHS/ORS.

db) Private monetary merit awards, contributions and gifts which are specific or restricted as to use shall be used as intended (e.g., scholarships earmarked for use for college tuition costs or general college expenses) and are an available comparable benefit or service that shall be considered as a comparable benefit to reduce the customer's need for that service(s) from DHS-ORS. Unrestricted monetary merit awards, contributions and gifts shall not be considered as an available resource by DHS-ORS and may be used by the customer however he/she wishes.

ec) While a customer will not be discouraged from applying for loans (i.e., student loans) to assist in the completion of his/her rehabilitation program, he/she shall not be required to accept such loans. Such loans are not comparable benefits.

(Source: Amended at 24 Ill. Reg. 132.15, effective \_\_\_\_\_)

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- 1) Headings of the Part: Medicaid Community Mental Health Services Program
- 2) Code Citation: 59 Ill. Adm. Code 132
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
132.25	Amended
132.42	Added
132.42	Amended
132.55	Amended
132.80	Amended
132.100	Amended
132.150	Amended
132.155	Amended
- 4) Statutory Authority: Implementing and authorized by the Community Services Act (405 ILCS 30) and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act (20 ILCS 1705/15.3).

5) Effective Date of Amendments: November 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: May 5, 2000, 24 Ill. Reg. 6768

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: In Section 132.25, made grammatical corrections to the definitions of "Admission note", "Day rehabilitation treatment programs", and "Licensed practitioner of the healing Arts."

In Section 132.25 under the definition of "Licensed practitioner of the healing Arts", qualified "within the scope of State law" by adding "as determined by the Department" and changed "prescribe" to "recommend."

Added "and DOC" throughout Section 132.42 where appropriate.

In Section 132.55(c)(1)(D), removed language requiring the appropriate Departments to begin the recoupment of funds prior to the disposition of a requested hearing. Added language that recoupment of funds would begin on a specified date pursuant to the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billings "unless the provider submits a written

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request for a hearing.

In Section 132.55(c)(1)(E), removed language requiring providers to submit a diskette making necessary changes.

In Section 132.80(b), removed language requiring independent audit reports be submitted 120 days after the end of the provider's fiscal year, and replaced it with language requiring independent audit reports be submitted consistent with each respective agency's contract with the State, and regulations.

In Section 132.80(c), changed the name of the "Financial Statement and Financial Report (FSFR)" to "Consolidated Financial Report."

In Section 132.150(e)(1)(D), removed "if prescribed by treating physician."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendments: This amendment adds a new Section 132.42 "Post-Payment Review." This Section clarifies the Department's authority to conduct post-payment reviews on Medicaid-reimbursable programs and services offered by providers. Other sections are amended to add new definitions and to clarify existing language.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
(217) 785-9772

The full text of adopted amendments begins on the next page:

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## TITLE 59: MENTAL HEALTH

## CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

## PART 132

MEDICAID COMMUNITY MENTAL  
HEALTH SERVICES PROGRAM

## SUBPART A: GENERAL PROVISIONS

## Section

132.10 Purpose

132.15 Incorporation by Reference

132.20 Clients' Rights and Confidentiality

132.25 Definitions

132.30 Application and Certification Process

132.35 Recertification and Reviews

132.40 Certification for Additional Medicaid Community Health Services and/or New Site(s)

132.42 Post-Payment Review

132.45 Suspension of Certification

132.50 Termination of Certification

132.55 Certification Appeal Criteria and Process

132.60 Rate Setting

## SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

## Section

132.65 Organizational Structure

132.70 Personnel and Administrative Recordkeeping

132.75 Program Evaluation

132.80 Fiscal and Statistical Requirements

132.85 Recordkeeping

132.90 Provider Site(s)

132.91 Accreditation

## SUBPART C: UTILIZATION REVIEW AND CONTINUITY OF SERVICES

## Section

132.95 Utilization Review

132.100 Clinical Records

132.105 Continuity and Coordination of Services

132.110 Availability of Services (Repealed)

## SUBPART D: CLINIC SERVICES

## Section

132.115 Provisions

132.120 Service Needs Evaluation

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132.125 Treatment Plan Development and Modification  
 132.130 Psychiatric Treatment  
 132.135 Crisis Intervention  
 132.140 Day Treatment

## SUBPART E: REHABILITATIVE SERVICES

Section  
 132.145 Provisions  
 132.150 Rehabilitative Mental Health Services  
 132.155 Family Intervention, Stabilization and Reunification Services

## SUBPART F: CASE MANAGEMENT SERVICES

Section  
 132.160 Provisions  
 132.165 Mental Health Case Management Services  
 132.170 Rehabilitative Case Management

APPENDIX A Medical Community Mental Health Services Application Components  
 APPENDIX B Utilization Parameters  
 TABLE A Mental Health Clinic Program Client Services  
 TABLE B Rehabilitative Mental Health Services  
 TABLE C Family Intervention, Stabilization and Reunification Services

AUTHORITY: Implementing and authorized by the Community Services Act [405 ILCS 30.] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 211, effective December 31, 1991, for a maximum of 150 days; new rules adopted at 16 Ill. Reg. 9006, effective May 29, 1992; amended at 18 Ill. Reg. 15593, effective October 5, 1994; emergency amendment at 19 Ill. Reg. 9200, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16178, effective November 28, 1995; amended at 21 Ill. Reg. 8299, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 21870, effective December 1, 1998; emergency amendment at 23 Ill. Reg. 4497, effective April 1, 1999, for maximum of 150 days; amended at 23 Ill. Reg. 10205, effective August 23, 1999; amended at 24 Ill. Reg. 11147, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 132.25 Definitions

For the purposes of this Part, the following terms are defined:

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"Adaptive functioning, stabilization and developmental interventions." Interventions with an individual or a group of individuals directed toward independent or age-appropriate functioning and emotional stability.

"Admission note." Documentation completed within 24 hours after a client's admission to a program providing comprehensive mental health services or comprehensive rehabilitative services. The purpose of the admission note is to document the initiation of the assessment and treatment planning process and the client's current mental health functioning level, provisional diagnosis, pertinent history, precautions, initial treatment plan and other relevant information. The admission note is completed by a staff with at least a bachelor's degree in human services following a face-to-face meeting with the client and approved by at least a QMHP. Medicaid community mental health services may be provided to eligible clients for a maximum of 14 days following admission based on the service recommendations specified by the admission note. Thereafter, services must be provided in accordance with an individual treatment plan (ITP) or rehabilitative services plan (RSP) completed following a mental health or rehabilitative assessment.

"Adult." An individual who is 18 years of age or older or a person who is emancipated pursuant to the Emancipation of Mature Minors Act [750 ILCS 30].

"CGAS." The Children's Global Assessment Scale as published in the Archives of General Psychiatry, Volume 40, November 1983, pp. 1228-1231.

"Certification." Initial determination and redetermination of the eligibility of a provider to participate in the Medicaid community mental health program and to provide mental health services. Certification is issued by the Department or DCS upon a determination of compliance with this Part. Certification must be issued by the Department or DCS prior to enrollment with the Department of Public Aid as a Medicaid provider in order to provide Medicaid reimbursable mental health services. Enrollment as a Medicaid provider is issued by the Department of Public Aid on receipt of a letter of certification by the Department or DCS and on determination of compliance with 89 Ill. Adm. Code 140.11 by the Department or Public Aid.

"Child or adolescent." For the Department and DOC, an individual who is 17 years of age or younger. For DCS, an individual who is 17 years of age or younger, except for an individual 18 years of age but less than 21 years old, who was receiving child welfare services from DCS prior to his or her 18th birthday and continues to receive such

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services following his or her 18th birthday.

"Client." An individual who is Medicaid-eligible and is receiving Medicaid community mental health program services financially supported in whole or in part by the Department (Section 1-123 of the Code), DCFS or DOC.

"Client-centered consultation." Individual client-focused professional communication between provider staff, or staff of other agencies, or with others (including family members) who are involved with providing services to a client with a mental illness for the purpose of implementing or evaluating the treatment plan.

"Code." The Mental Health and Developmental Disabilities Code [405 ILCS 5].

"Comprehensive mental health services." An array of services as described in Section 132.150 and 132.165 ~~Subparts B and F~~ of this Part which has been approved by the Department, DCFS or DOC. One or more of these services is provided on a daily basis to a client ~~child~~ who has a diagnosis of mental illness, as the term is defined in this Section, in order to restore or maintain the ~~client's child's~~ emotional or behavioral functioning ~~to at a level determined to be necessary for his or her the child's~~ successful functioning in a family, school and/or community. Comprehensive mental health services may only be provided to a ~~client child~~ who lives in a specialized substitute care living arrangement. For the Department, the services are restricted to a ~~client child~~ who resides in a specialized substitute care living arrangement, as defined in this Section, which is under contract with the Department pursuant to the Department's rules at 59 Ill. Adm. Code 135 (Individual Care Grants for Mentally Ill Children).

"Comprehensive rehabilitative services." An array of services as described in Sections 132.155 and 132.170 ~~Subparts B and F~~ of this Part which has been approved by DCFS or DOC. One or more of these services is provided on a daily basis to a ~~client child for whom BPRS is legally responsible or a DOC youth as defined in this Section and who has either a substantial impairment in role functioning or as indicated by an IDB-98 diagnosis or a diagnosis of mental illness, as both terms are defined in this Section~~ in order to restore or maintain the ~~client's child's~~ emotional or behavioral functioning to at a level determined to be necessary for his or her ~~the child's~~ successful functioning in a family, school and/or community. Comprehensive rehabilitative services may only be provided to a ~~client child~~ who resides ~~in a specialized substitute care living arrangement.~~

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"Confidentiality Act." The Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

"Crisis intervention." Activities or services to persons who are experiencing a psychiatric crisis which are designed to interrupt a crisis experience including assessment, brief supportive therapy or counseling and referral and linkage to appropriate community services to avoid more restrictive levels of treatment and which has the goal of symptom reduction, stabilization and restoration to a previous level of functioning.

"Day." A calendar day unless otherwise indicated.

"Day rehabilitation treatment ~~programs~~ program." Three levels of rehabilitative mental health services provided to persons with mental illness within a format of structured daily activities which are designed to promote improvement in psychological, interpersonal, and age-appropriate or independent role functioning and which shall include intensive stabilization, extended treatment and rehabilitation and psychosocial rehabilitation.

"DCFS." The Illinois Department of Children and Family Services.

"Department." The Illinois Department of Human Services.

"Developmental rehabilitative services." Specialized interventions in accordance with Sections 132.150 and 132.155 using drama, art, music or recreation which are intended to result in the restoration to a maximum level of functioning for clients served by the Department or served by DCFS or for DOC youths pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405] for whom a recommendation for such services has been made by a physician or licensed practitioner of the healing arts.

"DOC." The Illinois Department of Corrections.

"DOC youth." A youth placed in the legal custody of the Department of Corrections by a court on the basis of delinquency or conviction and who is granted an authorized absence or placed in a post-release setting, including but not limited to parole, mandatory supervised release, or electronic detention.

"DSM-IV." The Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (American Psychiatric Association, 1994 edition).

"Enrollment." The official enrollment of a certified provider in the medical assistance program by the Department of Public Aid on



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determination of compliance with 89 Ill. Adm. Code 140.11.

"Extended treatment and rehabilitation." Rehabilitative mental health services provided to persons with mental illness within a format of structured daily programming designed to promote growth in or maintenance of age appropriate and independent role functioning.

"Family." A basic unit or constellation of one or more adults and/or children, foster or adoptive parents and children, and private individual guardians ~~guardians~~.

"Family counseling." A treatment approach in which one or more mental health staff meets with the client with a mental illness and his or her available family members or with his or her family members on the client's behalf in ongoing periodic formal sessions to deal with daily living issues associated with the client's emotional, cognitive or behavioral problems which are significantly impacted on by current family interactions. This counseling approach uses a variety of supportive and re-educative techniques.

"Family therapy." A treatment approach in which one or more professionals deliberately establish a relationship with a client with a mental illness and his or her immediate family or with his or her family on the client's behalf in ongoing periodic formal sessions when the client's problems are perceived to be substantially due to impaired relations within the family. The goal is to modify family relationships which will result in amelioration or reduction of the client's symptoms of emotional, cognitive or behavioral disorder.

"GAF." The Global Assessment of Functioning Scale contained in the DSM-IV.

"Group counseling." A treatment approach in which one or more mental health staff meets with two or more clients with a mental illness in ongoing periodic formal sessions to deal with daily living issues associated with their emotional, cognitive or behavioral problems using a variety of supportive and re-educative techniques.

"Group therapy." An approach to treatment in which one or more professionals deliberately establish a relationship with two or more clients with a mental illness seen simultaneously in periodic formal sessions with the goal of ameliorating or reducing the symptoms of emotional, cognitive or behavioral disorder and promoting positive emotional, cognitive, and behavioral development.

"Guardian." The court-appointed guardian or conservator of the person under the Probate Act of 1975 [744 ILCS 5] or a temporary custodian or guardian of the person of a child appointed by an Illinois juvenile

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court or a legally-appointed guardian or custodian or other party granted legal care, custody and control over a minor child by a juvenile court of competent jurisdiction located in another state whose jurisdiction has been extended into Illinois via the child's legally authorized placement in accordance with the applicable interstate compact. (The Juvenile Court Act of 1987 [705 ILCS 405]; Interstate Compact on the Placement of Children [45 ILCS 15])

"Individual counseling." A treatment approach in which one mental health staff person meets with one client with a mental illness in ongoing periodic formal sessions, and uses relationship skills to promote the client's ability to deal with daily living issues associated with his or her emotional, cognitive or behavioral problems.

"Individual/family social rehabilitation." Structured activities provided individually or in a group setting to an individual with a mental illness or to his or her family in goal directed sessions directed toward improvement of social, emotional, cognitive, interpersonal or community adaptive functioning which are based on a clearly defined format which specifies the expected outcome. The approach is distinct from psychosocial rehabilitation day programming as defined in this Section.

"Individual therapy." A treatment approach in which a professional deliberately establishes a relationship with an individual client with a mental illness in ongoing periodic formal sessions with the goal of ameliorating or reducing the symptoms of emotional, cognitive or behavioral disorder and promoting positive emotional, cognitive and behavioral development.

"Individual treatment plan" or "treatment plan" (ITP). A written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Intensive family-based services for children and adolescents." A comprehensive psychosocial rehabilitation and training service provided in the home, school or other community-based location to children and adolescents with a mental illness and substantial impairment in role functioning to reduce the risk of more restrictive treatment such as psychiatric hospitalization.

"Intensive stabilization day program." Rehabilitative mental health services provided to persons with mental illness within a format of



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hallucinations, amnestic disorder and delirium; psychoactive substance induced organic mental disorders; and mental retardation or psychoactive substance use disorders. For purposes of this Part, this does not exclude individuals with a dual diagnosis of mental retardation or psychoactive substance use disorders as long as a mental illness is the principal diagnosis.

"Occupational therapy." The evaluation, after referral by a physician as part of the total rehabilitation and health care team, of functional performance ability of clients impaired by physical illness or injury, emotional disorder, congenital or developmental disability or the aging process, and the analysis, selection and application of occupations or goal-directed activities, for the treatment or prevention of these disabilities to achieve optimum functioning. Occupational therapy shall be provided in accordance with the Illinois Occupational Therapy Practice Act [225 ILCS 75].

"Physician." A physician licensed under the Medical Practice Act of 1987 [225 ILCS 60].

"Physician services." The Medicaid community mental health program services which must be provided directly by a physician are psychiatric evaluation and psychotropic medication prescription and review.

"Post-payment review." The review of provider billings to determine compliance with documentation requirements pursuant to this Part.

"Principal diagnosis." When a person receives more than one diagnosis, the principal diagnosis is the condition that is chiefly responsible for precipitating inclusion in the appropriate Medicaid community mental health program services. A principal diagnosis of mental illness is the condition that will be the main focus of attention or treatment.

"Provider." An agency certified by the Department or DCFS to provide Medicaid community mental health services in accordance with this Part.

"Psychiatric evaluation." An in-depth evaluation of the client conducted by a psychiatrist, or a physician with training in mental health services or one year of clinical experience, under supervision, in treating problems related to mental illness. The psychiatric evaluation covers all aspects of assessment generally accepted as reasonable clinical practice in the field of psychiatry including a statement of assets and deficits and results in a formulation of problems, diagnosis, and treatment recommendations.

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"Psychological assessment." An assessment of the client's functioning in emotional, cognitive, intellectual and/or behavioral domains by a licensed clinical psychologist consistent with the Clinical Psychologist Licensure Act using nationally standardized psychological assessment instruments. The assessment results in a formulation of problems, tentative diagnosis and recommendation for treatment or services **services** ~~services~~.

"Psychosocial rehabilitation day program." A formal program of daily services directed towards assisting clients with a mental illness to function at their highest level in the community. Clients participate, based on individual needs as determined in their treatment plan, in a variety of integrated individual and group services during the regularly scheduled formal program including counseling and adaptive functioning, stabilization and developmental interventions.

"Psychotropic medication monitoring and training." On-going observation of the client's response to his or her medication and information provided to a client with mental illness regarding the appropriate use of the psychotropic medication prescribed for his or her mental illness.

"Qualified mental health professional (QMHP)." One of the following:

A physician licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine or osteopathy with training in mental health services or one year of clinical experience, under supervision, in treating problems related to mental illness, or specialized training (the treatment of children and adolescents);

A psychiatrist (a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60]) who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program identified as equivalent by the Department;

A **a** psychologist licensed under the Clinical Psychologist Licensure Act [225 ILCS 15] with specialized training in mental health services;

A social worker possessing a master's or doctoral degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services;

A registered nurse licensed pursuant to the Nursing and Advanced Practice Nursing Act [225 ILCS 65] ~~Illinois-Nursing-Act-of-1997~~ with at least one year of clinical experience in a mental health

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setting or who possesses a master's degree in psychiatric nursing;

An occupational therapist registered pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting;

An individual with a master's degree and at least one year of clinical experience in mental health services and who holds a license to practice marriage and family therapy pursuant to the Marriage and Family Therapy Licensing Act [225 ILCS 55]; or

An individual possessing a master's or doctoral degree in counseling and guidance, rehabilitation counseling, social work, vocational counseling, psychology, pastoral counseling, or family therapy or related field, who has successfully completed a practicum and/or internship which includes a minimum of 1,000 hours, or who has one year of clinical experience under the supervision of a qualified mental health professional, or who is a licensed social worker holding a master's degree with two years of experience in mental health services or who is a permanently licensed professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] holding a master's degree with one year of experience in mental health services.

"Rehabilitative assessment." Assessment activities in accordance with Section 132.155 including the use of recognized professional practices and, as necessary, the administration of valid and reliable instruments in order to determine a client's need for rehabilitative services.

"Rehabilitative crisis intervention and stabilization." Intensive, face-to-face interventions with an eligible client and/or family in accordance with Section 132.155 who is experiencing an acute crisis which are intended to result in the short-term restoration of the client's or family's stability and functioning to the extent that the client is not at risk of self-harm or of removal from his or her family or of psychiatric hospitalization or abuse or neglect and/or the client is not at risk of self-harm or of causing harm to others or property.

"Rehabilitative counseling." Counseling in accordance with Section 132.155 which is intended to result in the behavioral or functional changes necessary to restore a DOC youth or an eligible client served by DCS pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405] who has been determined, as

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the result of a mental health or comprehensive assessment, to be in need of rehabilitative counseling, to the level necessary for the client's effective day-to-day functioning.

"Rehabilitative services associate (RSA)." A rehabilitative services associate assists in the provision of services in accordance with Sections 132.150, 132.155, 132.165 and 132.170. A rehabilitative services associate must be at least 21 years old, have demonstrated skills in the field of services to adults or children, have demonstrated the ability to work within agency structure and accept supervision, and have demonstrated the ability to work constructively with clients, other providers and the community.

"Rehabilitative services coordination." Activities in accordance with Section 132.170 intended to directly assist DOC youths or eligible clients served by DCS pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405] to access rehabilitative services recommended by a physician or LPHA pursuant to the rehabilitative services portion of the treatment plan.

"Rehabilitative services consultation and review." Scheduled meetings with a supervisor, the recommending physician or LPHA or with a team of professionals from multiple disciplines in accordance with Section 132.155 which are for the distinct purpose of reviewing the status of prescribed rehabilitative services and/or determining whether there is a need to change the type or content of prescribed service for DOC youths or clients served by DCS pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405].

"Rehabilitative services plan (RSP)." A written plan developed in accordance with Section 132.155 which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for DOC youths or eligible clients served by DCS pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405].

"Rehabilitative stabilization services." Specific activities in accordance with Sections 132.150 and 132.155 undertaken with DOC youths or eligible clients served by the Department or served by DCS pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505] or the Juvenile Court Act of 1987 [705 ILCS 405] pursuant to a recommendation for rehabilitative stabilization services. The activities, which may be provided individually or in a group setting, are intended to result in the client developing or maintaining his or her best possible



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functional level in the areas of family, school or community.

"Rehabilitative transition, linkage and aftercare." Activities in accordance with Section 132.170 completed with or on behalf of a DOC youth or a child for whom DCFS is legally responsible, who is being moved from one living arrangement to another living arrangement or from one provider agency to another provider agency or service provider that are intended to result in an effective transition consistent with the child's need for rehabilitative services and his or her welfare and development, including transition to adult systems of care if indicated and appropriate.

"Secretary." The Secretary of the Department of Human Services or his or her designee.

"Service needs evaluation." The formal process of determining the service needs of the client through an assessment of the client, utilization of information gained from available collaterals (family and associates), data from the mental health assessment and specialized intensive assessments required by the nature of the client's condition, such as a psychiatric evaluation, psychological assessment or other specialized assessment approach.

"Short-term diagnostic and rehabilitative services." Services as described in Subparts E and F of this Part which may include rehabilitative assessment, service plan development, crisis intervention and stabilization, counseling, rehabilitative case management and transition, linkage and aftercare provided for a maximum of 90 days for a DOC youth or a child for whom DCFS is legally responsible and who has a substantial impairment in role functioning as indicated by an ICD-9-CM diagnosis, or has a diagnosis of a mental illness as both are defined in this Section and who resides in a specialized substitute care living arrangement.

"Site." A discrete location other than a licensed foster family home that is owned or leased by a provider for the purpose of providing Medicaid community mental health services at which staff are housed and records maintained.

"Specialized substitute care living arrangement." A residential or group care living arrangement which, if providing services to a child, is supervised by an agency which, if located in the State of Illinois, is licensed pursuant to the Child Care Act of 1969 [225 ILCS 10] and is certified pursuant to this Part and which is under contract to DCFS, the Department or DOC to provide specialized substitute care.

"Substantial impairment of role functioning." Refers to significant limitations in activities of daily living, such as self-care,

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communications, learning, work skills, social interaction, the ability to self-direct one's behavior at an age-appropriate or independent level and, in the case of a child or adolescent, may include the extrusion or risk of extrusion from family due to emotional and behavioral factors.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 132.42 Post-Payment Review**

The Department, DCFS or DOC may conduct on-site post-payment reviews to determine compliance with documentation requirements of this Part and to determine amounts subject to recoupment to the Department, DCFS or DOC when documentation is not in compliance with this Part.

a) The Department, DCFS or DOC shall compare billed services to those listed on the individual treatment plan (ITP) or rehabilitative services plan (RSP) in effect at the time service was provided. The Department, DCFS or DOC will determine that the following are unsubstantiated:

- 1) billings for services without an ITP or RSP being in effect (except for mental health or rehabilitative assessment; ITP or RSP development, review and modification; crisis intervention or rehabilitative crisis intervention and stabilization; mental health/rehabilitative social history; rehabilitative transition, linkage, and aftercare; and mental health case management when immediate assistance is needed to obtain food, shelter and clothing;
  - 2) billings for services that the agency is not certified to provide;
  - 3) billings for services not listed on the ITP or RSP (except for mental health or rehabilitative assessment; ITP or RSP development, review and modification; crisis intervention or rehabilitative crisis intervention and stabilization; mental health/rehabilitative social history; rehabilitative transition, linkage, and aftercare; and mental health case management when immediate assistance is needed to obtain food, shelter and clothing; and/or
  - 4) billings which do not comply with the documentation required in this Part.
- b) The post-payment review must verify compliance with the documentation requirements identified in subsection (a) of this Section.
- c) If the Department, DCFS or DOC finds evidence of suspected Medicaid fraud, the Department, DCFS or DOC shall refer such evidence to the Department of Public Aid, Office of Inspector General for further action.
- d) The provider may appeal the Department's, DCFS' or DOC's intent to recover funds as specified in Section 132.53.

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(Source: Added at 24 Ill. Reg. \_\_\_\_\_ effective \_\_\_\_\_)

Section 132.55	<u>Certification</u>	<u>Appeal</u>	<u>Criteria criteria and Process</u>
process			

- a) Grounds for appeal by the provider are:
  - 1) Determination of non-compliance with this Part; or
  - 2) Refusal to issue certification; or
  - 3) Refusal to issue recertification; or
  - 4) Suspension or termination of any or all Medicaid community mental health services; or
  - 5) Notice of intent to recover funds following a post-payment review.
- b) Certification appeal criteria and process
  - 1) If either the Department or DCFCS determines that certification or the recertification should not be issued or that certification should be suspended or terminated during a certification period because of non-compliance with the provisions of this Part, either the Department or DCFCS shall send, by registered mail, written notice to the applicant or the certified provider within 30 working days after the determination. The notice shall contain the specific requirements the provider has not complied with, either the Department's or DCFCS' proposed action, and provider rights as follows:
    - A) If the applicant or certified provider chooses to appeal either the Department's or DCFCS' decision, the applicant or provider shall submit a written request for a hearing to the Department or DCFCS within 20 working days after the date of receipt of the notice. Receipt is presumed ten days after mailing.
    - B) If an appeal is initiated by a certified provider, services shall be continued pending a final administrative decision.
  - 2) If the applicant or certified provider does not submit a request for a hearing, as provided in this Part, or if after conducting the hearing either the Department or DCFCS determines that the certification or recertification should not be issued or that the certification should be suspended or terminated, either the Department or DCFCS shall issue an order to that effect. If the order is to suspend or terminate the certification, it shall specify that the order takes effect upon receipt by the certified provider, and that the provider shall not provide Medicaid community mental health program services during the pendency of any proceeding for judicial review of the Department's or DCFCS' decision, except by court order.
- c) Intent to recover funds appeal criteria and process
  - 1) If either the Department or DCFCS determines that the provider is not in compliance with the billing documentation requirements or

this Part pursuant to a post-payment review conducted in accordance with Section 132.42 of this Part, it shall submit written notification of the Department's or DCRS' intent to recover funds in a Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing. The notice shall set forth:

- B) a statement of the right to request a hearing within 10 working days after the provider's receipt of the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing;
  - C) a statement of the legal authority and jurisdiction under which the hearing is to be held;
  - D) the date after which the Department or DCFS will start to recover money by deducting from Department or DCFS obligations to the provider, unless the provider submits a written request for a hearing in accordance with subsection (c)(1)(B); and
  - E) that the provider must submit necessary corrections to the billing information previously submitted and that the Department or DCFS will adjust payments to the provider upon receipt of those adjustments.
- 2) If the provider chooses to appeal, the Department's or DCFS' intent to recover money, the provider shall submit a written request for a hearing to the Department or DCFS within 20 working days after the date of receipt of the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing. Receipt is presumed ten days after mailing.
- 3) The sole issue at the hearing requested by a provider appealing a Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing following a post-billing review shall be whether the provider is in compliance with billing documentation requirements set forth in this Part and identified in the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing.
- Hearing process**
- 1) The hearing shall be conducted by an impartial administrative law judge appointed by the Department of Public Aid (DPA).
  - 2) DPA's hearing rules for medical vendor hearings at 89 Ill. Adm. Code 104.200 shall apply, except that the following Sections do not apply to these hearings: \*447 104.204, 104.206, 104.208, 104.210, 104.216, 104.217, 104.221, 104.222, 104.260, 104.272, 104.273, and 104.274.
  - 3) The appeal shall be filed with, and received by, the Department's Bureau of Administrative Hearings, 100 South Grand Avenue, East, 3rd Floor, **Hearing-and-Appeals-Unit-401-Stratton-Building**, Springfield IL 62762 67665, within 20 working days after the date of receipt of the notice ~~the decision~~.
  - 4) The Department or DCFS shall send a copy of the appeal to the DPA's vendor Hearings Section, 401 South Clinton Avenue, 6th Floor, 6254

### Direct Hearing process

- 1) The hearing shall be conducted by an impartial administrative law judge appointed by the Department of Public Aid (DPA).
- 2) DPA's hearing rules for medical vendor hearings at 89 Ill. Adm. Code 104.200 shall apply, except that the following Sections do not apply to these hearings: ~~§§ 104.204, 104.205, 104.209, 104.210, 104.216, 104.217, 104.221, 104.260, 104.272, 104.273, and 104.274.~~
- 3) The appeal shall be filed with, and received by, the Department's Bureau of Administrative Hearings, 100 South Grand Avenue East, ~~3rd Floor, Hearing and Appeals--Unit--401-Stratton-Building~~ Springfield IL 62762 ~~6765, within 20 working days after the date of receipt of the notice of the decision.~~
- 4) The Department or DCPS shall send a copy of the appeal to the DPA Vendor Hearings Section, 401 South Clinton Avenue, 6 Floor, 654

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South-Wichigan-Avenue, Chicago IL 60607 68695-1995 within five days after receiving the appeal. all non-written communications

5) The appellant shall direct the Bureau Chief Supervisor of the Department's Bureau of Administrative Hearings Hearing-and- Appeals-Unit or to DCS, who shall send them to the DPA Vendor Hearings Section.

6) A recommended decision shall be submitted to the DPA Director and copies mailed to the parties, in accordance with DPA's rule at 89 Ill. Adm. Code 104.290. A copy shall also be mailed to the Bureau Chief Supervisor of the Department's Bureau of Administrative Hearings Hearing-and- Appeals-Unit or to DCS.

## e) 4) Final Administrative Decision

The Director of the Department of Public Aid shall issue a final administrative decision in accordance with DPA's rule at 89 Ill. Adm. Code 104.295.

## f) 4) Judicial review

The final Final administrative decision shall be subject to judicial review exclusively as provided in the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 24 Ill. Reg. 111 111, effective 111 111)

## SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

Section 132.80 Fiscal and Statistical Requirements ~~Statistical~~

a) Providers shall provide present written assurances that they will submit billings in the manner specified by the Department, DCS or DOC, as applicable, and that they have a formal accrual accounting system in accordance with Generally Accepted Accounting Principles (GAAP) (Harcourt, Brace, Jovanovich, Publisher (1989)).

b) The provider shall submit to the Department, DCS or DOC, as applicable, annually an independent audit report consistent with each respective agency's contracts, rules and/or regulations 180-days-after the-end-of-the-provider's-fiscal-year. These required audit reports shall be prepared in accordance with the current American Institute of Certified Public Accountants generally accepted auditing standards appropriate for the provider and in accordance with relevant Federal single audit requirements (e.g., U.S. Office of Management and Budget Circular A-128 (April 12, 1985) or Circular A-133 (Single Audit Information Service, Thompson Publishing Group, 1725 K. Street N.W., Suite 200, Washington, DC 20006)). The report shall contain all applicable statements including the basic financial statement presenting the financial position of the organization, the results of its operation, and changes in fund balances or retained earnings. The report shall contain the certified public accountant's opinion

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regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. If the certified public accountant expresses a qualified opinion, a disclaimer of opinion, or an adverse opinion, the reason shall be stated. (A report will not be accepted if the certified public accountant's opinion is qualified or denied because the provider placed an unnecessary limitation on the scope of the audit.)

c) The provider shall also submit within 180 days after the end of the State fiscal year the State of Illinois Consolidated Financial Report ~~Interagency Statistical and Financial Report (ISFR)~~ to the Department, DCS or DOC, as applicable, unless the Department, DCS or DOC extends the time-frame for a provider having a different fiscal year than the State of Illinois.

d) The provider shall also comply with the requirements governing audits, false reporting and other fraudulent activities pursuant to 89 Ill. Adm. Code 140.30 and 140.35 for services provided to Medicaid-eligible clients. The provider will be held responsible for any claims disallowed resulting from non-compliance with this Part.

e) Each provider shall contract with the Department, DOC and/or DCS for health services rendered under the Medicaid community mental health program must be submitted by a provider to the Department, DCS or DOC, as applicable, in the manner required by each department. The billings shall include the following:

1) A claim for reimbursement for each covered item of service provided to a client.

2) A claim for reimbursement shall be submitted during the State fiscal year that the service was delivered but in no case shall a claim be submitted later than one year from the date on which the service was provided.

3) The provider shall keep and make available such hard copy records and source documents associated with each submitted reimbursement claim as necessary to disclose fully the nature and extent of service billings included therein.

4) Each reimbursement claim submitted to the Department, DCS or DOC, as applicable, shall be accompanied by a transmittal document providing a description of the claim for reimbursement (submitting provider, number of claim transactions, etc.) and a signed certification for each such batch.

g) The provider shall report to the Department, DCS or DOC, as applicable, information regarding the client's private insurance coverage or third party liability coverage on the claim transaction. In addition, adjustments to prior approved claims must be submitted on the claim transaction. The provider shall bill all other third parties prior to billing the Department, DCS or DOC, as applicable, for services and shall maintain a record of all such billings and payments received.

h) Services--such-as-individual-group-and-family-therapy-psychotropic

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~~medication--monitoring--and--self-administration--training--crisis intervention-and-case-management--shall-be-reimbursed-at-an-hourly-rate per-client-payable-to-the-nearest-quarter-hour.~~  
~~h) Day treatment services such as intensive stabilization and extended treatment and rehabilitation shall be reimbursed at an hourly rate per client payable to the nearest hour. Billable services are limited to eight hours per day up to seven days per week. Comprehensive mental health and comprehensive rehabilitation services shall be reimbursed at a daily rate per client. All other mental health services shall be reimbursed at an hourly rate per client payable to the nearest quarter hour.~~

~~h) Psychiatric services provided by physicians are reimbursed directly by the Department of Public Aid.~~

(Source: Amended at 24 Ill. Reg. 117.1, effective \_\_\_\_\_)

## SUBPART C: UTILIZATION REVIEW AND CONTINUITY OF SERVICES

## Section 132.100 Clinical Records records

The client's clinical record shall contain, but is not limited to the following:

- a) Identifying information including name, Medicaid client identification number, address and telephone number, sex, date of birth, primary method of communication, if other than English, emergency contact or guardian, date of initial contact and initiation of mental health services, third party insurance coverage, and, as appropriate, may include marital status and source of referral;
- b) Documentation of consent for mental health services;
- c) Assessment and reassessment reports;
- d) A current ITP or rehabilitative services plan, progress notes and reviews;
- e) Documentation concerning the prescription and administration of psychotropic medication;
- f) Documentation of missed appointments;
- g) Documentation of client movement (referral/transfer) during any active service period to or from the provider's programs or to or from other providers;
- h) Documentation to support services rendered for which reimbursement is claimed which includes:
  - 1) the specific services ~~service(s)~~ rendered;
  - 2) the date the services ~~service(s)~~ were rendered;
  - 3) who ~~who~~ rendered the services ~~service(s)~~;
  - 4) the setting in which the services ~~service(s)~~ were rendered; ~~and~~
  - 5) Client progress in relation to the services ~~service(s)~~ in the ITP or rehabilitative services plan.

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- i) Comprehensive rehabilitative services and comprehensive mental health services that shall be documented according to the client's ITP or RSP. These services shall be documented on a daily basis by completion of shift treatment summaries and/or other service documentation. Mental health services not documented on the shift treatment summaries shall be documented according to subsection (b) of this Section. Shift treatment summaries may only be used to document rehabilitating stabilization services and developmental rehabilitation, and must include the following:
  - 1) the specific services received over the period being documented;
  - 2) the date the services were rendered;
  - 3) who rendered the services;
  - 4) the signature of the author with credentials;
  - 5) the setting in which the services were rendered;
  - 6) client progress in relation to the goals, objectives and/or expected outcomes on the client's ITP or RSP; and
  - 7) the client's general level of role functioning over the period being documented; ~~documented on a daily basis by completion of--a daily-treatment-summary-which-identifies-the-service(s)-received each-day-and-describes-a-child's-general-level-of-functioning.~~
- j) Periodic reviews describing the client's overall progress;
- k) A record of the client's major accidents or incidents that occur at the site with regard to a specific client, whether self-reported or observed, and resulting in an adverse change in the client's physical and/or mental functioning; and
- l) Discharge summary documenting the outcome of treatment and, as necessary, the linkages for continued services.

(Source: Amended at 24 Ill. Reg. 117.1, effective \_\_\_\_\_)

## SUBPART E: REHABILITATIVE SERVICES

## Section 132.150 Rehabilitative Mental mental health health Services services

- a) Services under this Section shall be provided to clients with a diagnosis of mental illness as defined in Section 132.25 and whose level of role functioning is impaired.
- b) A physician or a LPHA shall provide clinical direction of the provision of rehabilitative mental health services which shall include review and approval of ITP development and modification. Such ITP shall be reviewed and modified, as necessary, but no less than once every six months.
- c) Service needs evaluation
  - 1) The provider shall ensure that an individual requesting Medicaid community mental health services, any client who has been referred by order of a court or any individual referred pursuant to a recommendation resulting from an early and periodic



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screening, diagnostic and treatment (EPSDT) examination, shall receive an evaluation of his or her need for mental health services. The service needs evaluation process may include a mental health assessment, a psychological assessment and/or a psychiatric evaluation. The service needs evaluation process shall result in a determination of the need for mental health services and the type of mental health services required and shall ensure the appropriateness of admission for inpatient psychiatric hospitalization.

- 2) The service needs evaluation shall include a face-to-face or personal contact interview with the client and collaterals, as indicated.
- 3) A client shall receive a mental health assessment prior to the development and implementation of an ITP. If the client is determined to be in need of immediate crisis intervention services, a mental health assessment shall not be required prior to the initiation of crisis services.
- 4) Prior to the initiation of mental health services, the provider shall obtain written or oral consent from the client and/or the client's guardian, as applicable, unless the client is determined to be in need of crisis intervention services, or if the assessment is court-ordered for the client. Individuals who participate in treatment services are deemed to have consented; oral consent shall also be documented in the record.
- 5) The mental health assessment shall include, at a minimum, the compilation, assessment and written report of the following:
  - A) Identifying information (see Section 132.100(a));
  - B) Extent, nature, and severity of presenting Problems problems;
  - C) Personal and family history including the history of mental illness in the family;
  - D) Cognitive functioning (attention, memory, information, attitudes), perceptual disturbances, thought content, speech, and affect, and an estimation of the ability and willingness to participate in treatment;
  - E) History of mental health treatment;
  - F) Present level of functioning including social adjustment and daily living skills;
  - G) Legal status (guardianship, representative payee, trust beneficiary, pending court order);
  - H) Level of education and/or specialized training, if applicable for adults;
  - I) Previous employment, the acquired vocational skills and activities/interests, if applicable;
  - J) History of and/or current alcohol or chemical dependency;
  - K) Previous and current psychotropic medications, last physical examination and any known medical problems; and
  - L) Resource availability (i.e., income entitlements, health

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- 6) care benefits, subsidized housing, social services). Responsibility for the completed mental health assessment shall be assumed by a QHP who has had, at minimum, one face-to-face contact with the client, his or her family, and the client's guardian, if applicable, at the client's request or by agreement of the client, during which the family was given the opportunity to provide pertinent information or support. WRPS AM-IMP13 under the direct supervision of a QHP may participate in the mental health assessment.
- 7) The mental health assessment may be initiated without the prior recommendation of the physician or LPHA.
- 8) The results of the mental health assessment shall be reviewed by the physician or LPHA and documented by signature on the ITP. The physician or LPHA shall determine if a psychiatric evaluation and/or a psychological assessment is necessary in order to develop the client's ITP. A psychiatric evaluation, if recommended, shall be conducted with the client by the physician on a face-to-face basis with the client. A psychological assessment, if recommended, shall be conducted with the client by a licensed clinical psychologist on a face-to-face basis with the client.
- 9) The service needs evaluation reports report(s), including the mental health assessment, the psychiatric evaluation, if applicable, and the psychological assessment, if applicable, shall be used in the development of the client's ITP.
  - d) Treatment plan development, review and modification
    - 1) The provider shall explain to the client and to the client's guardian, if applicable, the process for the development and the contents of the ITP.
    - 2) The ITP shall be developed with the participation of the client and the client's guardian, if applicable, shall be signed by the QHP and the physician and/or LPHA who is directing the formulation of the ITP and shall be incorporated in the client's clinical record.
    - 3) The plan shall be signed by the client if the client is 12 years of age or older or by the parent or legal guardian of a minor or by the legally appointed guardian of an adult who has been adjudicated as legally disabled. A copy of the signed plan shall be given to the client, if not clinically contraindicated, and the client's parent or guardian, if applicable.
    - 4) The ITP shall be developed within 45 days after the documented date of completing the mental health assessment. The ITP shall include a definitive diagnosis that has been determined using the DSM-IV or ICD-9-CM. If the diagnosis cannot be determined within 45 days or a rule-out diagnosis is given, the client's clinical record must contain documentation as to what evaluations evaluation(s) will be performed in order to provide a definitive diagnosis in the ITP.



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- 5) The ITP shall state the overall goals of treatment, indicate the specific mental health services to be provided and describe the mental health services needs of the client in relationship to mental health services to be provided including goals, objectives, expected outcome, frequency and responsible staff.
  - 6) Responsibility for development of the ITP shall be assumed by a QMHP as documented by his or her signature on the ITP.
  - 7) A physician or UPRA shall provide the clinical direction of rehabilitative mental health services identified in the ITP as documented by his or her signature on the ITP. Such clinical direction includes reviewing the plan no less than once every six months and modifying the plan as necessary.
  - 8) Mental health professionals may participate in the development of the ITP.
  - 9) If multiple Medicaid certified providers are involved in providing mental health services to the same client under this Section, one master ITP shall be developed by the team of individuals responsible for providing the respective services.
- e) Psychiatric treatment
- 1) Psychotropic medication requirements include:
    - A) Psychotropic medication shall be prescribed by a physician who has conducted a psychiatric evaluation of the client, or in an emergency, is aware of the client's psychotropic medication history and the client's current level of functioning.
    - B) Psychotropic medication shall be administered by personnel licensed to administer medication pursuant to the Nursing and Advanced Practice Nursing Act [225 ILCS 65] ~~§§10-15~~ ~~Nursing Act of 1997~~ and the Medical Practice Act of 1987 [225 ILCS 60].
    - C) Psychotropic medication shall be reviewed, at a minimum, every 90 days ~~at a minimum~~ by the physician.
    - D) When psychotropic psychotropic medication monitoring and self-administration training are prescribed by the treating physician, the monitoring and training shall be provided to clients in the following areas ~~if prescribed by the treating physician~~:
      - i) Psychiatric illness;
      - ii) Psychotropic medications, effects, side-effects, and adverse reactions;
      - iii) Self-administration of medications;
      - iv) Storage and safeguarding of medication; and/or
      - v) Communicating with mental health professionals regarding medication issues.
    - E) Notations ~~Notation~~ shall be made in the client's clinical record regarding psychotropic medication and other types of medication. Notations ~~Notation~~ shall include:
      - i) All medication being taken by the client;

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- ii) Current psychotropic medication: name, dosage, frequency and method of administration;
  - iii) Any ~~problems with psychotropic medication administration and activities~~ ~~Activities~~ implemented to address these ~~any problems~~ ~~problems~~; resulting from ~~psychotropic-medication-administration~~; and
  - iv) A statement indicating that the client has been informed of the purpose of the psychotropic medication ordered and the side effects of the medication.
  - F) Psychotropic and other medication shall be stored under proper conditions and medication shall be stored under moisture, ventilation, segregation, temperature, light, and in accordance with the Department of Public Health's rules at 77 Ill. Adm. Code 300.1640.
  - G) Psychotropic medication monitoring and training shall be provided by the physician, by a QMHP under the direction of a physician, or by a MHP under the supervision of a QMHP. The physician must designate, in writing, the professionals who provide medication monitoring and training services, as medication monitoring and training staff.
- 2) Therapy or counseling shall include:
    - A) Individual therapy or counseling; and
    - B) Group therapy or counseling; and
    - C) Family therapy (includes couples' therapy and marital counseling) or family counseling.
  - 3) The services shall be provided:
    - A) Following a mental health assessment and consistent with the client's ITP; and
    - B) On a face-to-face or personal contact basis with adult clients and their families, at the client's request or agreement or with groups of clients, or with a child or adolescent client and his or her family, or on behalf of a child or adult with the child's or adult's family and based on the ITP.
  - 4) Service termination criteria shall include:
    - A) Determination that the client's level of role functioning and the personal distress level have improved and can be maintained consistent with the ITP; or
    - B) Determination that the client's level of role functioning has significantly deteriorated to a degree where referral or a transfer to a more intensive mental health treatment is indicated or
    - C) Documentation in the client's clinical record that the client terminated participation in the program.
  - 5) Psychiatric treatment services shall be provided in accordance with the following:
    - A) Therapy services shall be provided by a QMHP; and
    - B) Counseling may be provided by a QMHP or MHP.

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## f) Crisis intervention

- 1) Crisis intervention services shall be provided to clients who are experiencing a psychiatric crisis and a high level of personal distress to provide brief and immediate intensive treatment to reduce symptomatology, stabilize and restore the client to a previous level of role functioning and to assist the client in functioning in the community.
- 2) Crisis intervention services shall include:
  - A) Immediate preliminary assessment;
  - B) Therapy or counseling (brief and immediate); and
  - C) Referral, linkage and consultation with other appropriate mental health services.
- 3) Crisis intervention services shall provide immediate crisis assessment to ensure the appropriateness of admission for psychiatric hospitalization.
- 4) Services shall be provided on a face-to-face or personal contact basis, following, at a minimum, an assessment of the need for mental health services. If one does not already exist, a preliminary ITP shall be developed and shall become a part of the ITP, if additional mental health services are to be provided.
- 5) Crisis intervention services may be initiated prior to development of the ITP. Referral and linkage with continuing mental health services shall be provided for clients in crisis, including residential crisis care, respite care and/or inpatient psychiatric treatment, as needed.
- 6) Service eligibility and termination criteria
  - A) Crisis intervention services shall be available to clients presenting an apparent need for immediate mental health services. Service eligibility criteria shall include:
    - i) Determination of deterioration in one or more areas of role functioning within the past seven days which requires immediate resolution and stabilization to prevent further deterioration in role functioning; or
    - ii) Determination that acute symptomatology requires immediate stabilization to prevent substantial deterioration in role functioning and to relieve personal distress.
  - B) Service termination criteria shall include:
    - i) Determination that the crisis has been resolved and the client shows positive change toward restoration to a previous level of role functioning and/or decrease in personal distress and is not in need of further crisis mental health services; or
    - ii) Determination that the client has been stabilized or requires a transfer or referral to less intensive mental health treatment for continuing mental health services; or
    - iii) Determination that the client has not been stabilized

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- and the client requires a transfer or referral to more intensive mental health treatment for continuing mental health services; or
- iv) Documentation in the client's clinical record that the client terminated participation in the program.
- 7) Crisis intervention services may be delivered by a QMHP or an MHP with access to a QMHP who is available for immediate consultation and clinical supervision.
- 8) The number of crisis intervention staff shall be adequate to provide immediate crisis assessment, brief therapy or counseling and referral and linkage on a face-to-face basis during the regular hours of service operation and, at a minimum, provide crisis assessment and referral to mental health services, as necessary, after the regular hours of operation. Written agreements shall be established for referral of clients to crisis intervention services after regular operating hours, as necessary.
- 9) Day rehabilitation treatment programs
  - 1) Day rehabilitation treatment programs may include three levels of rehabilitative mental health services provided within a format of structured daily activities which are designed to promote improvement in psychological, interpersonal and age-appropriate or independent role functioning which shall include intensive stabilization, extended treatment and rehabilitation and psychosocial rehabilitation. Such programs are specified as intensive stabilization services, extended treatment and rehabilitation services or psychosocial rehabilitation day program services. Each service provides an integrated, comprehensive and complementary schedule of psychiatric and/or psychosocial treatment modalities provided in a therapeutic milieu addressing at least three areas of functioning:
    - A) Psychological;
    - B) Interpersonal; and
    - C) Age-appropriate or independent role functioning.
  - 2) Day rehabilitation treatment programs for individuals under the age of 21 years shall not include services that are educational in nature; for example, services identified in the individual education plan (IEP).
  - 3) Intensive stabilization and extended treatment and rehabilitation services shall include a range of therapeutic interventions provided following a mental health assessment and consistent with the client's ITP.
  - 4) Intensive stabilization services shall be available for a minimum of four hours a day, five days a week with a schedule of interventions focused on resolution or stabilization of short-term problems or crisis situations which, if not treated, would require inpatient psychiatric hospitalization including the provision of the following:
    - i) Determination that the client has not been stabilized

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- A) Therapy (individual, group and family); or
- B) Occupational therapy (optional).
- 5) Extended treatment and rehabilitation services shall be available for a minimum of four hours a day, five days a week with a schedule of interventions focused on the development, acquisition, enhancement and/or maintenance of interpersonal and adaptive functioning to restore client functioning and to facilitate re-entry into the family and community, including the provision of the following:
  - A) Therapy (individual, group and family);
  - B) Occupational therapy (optional); and
  - C) Adaptive functioning, stabilization and developmental interventions.
- 6) Psychosocial rehabilitation day program services shall be available for a minimum of four hours a day, five days a week. Individuals participate in services based on their individualized needs consistent with their ITPs.
- 7) Psychosocial rehabilitation day program services include provision of core service elements which address age-appropriate or independent role functioning and include:
  - A) Individual or group counseling;
  - B) Individual or group adaptive functioning, stabilization, and developmental interventions; and
  - C) Community integration and reintegration.
- 8) Service eligibility and termination criteria for intensive stabilization shall include determination that the client:
  - i) Exhibits signs, symptoms and associated features of mental illness and has experienced deterioration in role functioning in one or more primary areas, which requires immediate intervention to prevent further deterioration and the need for 24-hour supervised treatment, e.g., hospitalization; or
  - ii) Requires further continuation of treatment following hospitalization because symptoms persist and role functioning has not improved.
- B) Specific service eligibility criteria for extended treatment and rehabilitation services and psychosocial rehabilitation day program services shall include a determination that the client lacks independent living skills and/or is unable to maintain community adjustment without structured intervention.
- C) General termination criteria for intensive stabilization shall include:
  - i) Determination that the client's level of acute distress/crisis has been resolved and previous role functioning restored consistent with ITP objectives; or

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- ii) Documentation in the client's clinical record that the client terminated participation in the program.
- D) General termination criteria for extended treatment and rehabilitation services and psychosocial rehabilitation day program services shall include:
  - i) Determination that the client's level of role functioning has improved, and the rehabilitation services objectives have been obtained and maintained consistent with the ITP; or
  - ii) Determination that the client's level of role functioning has not improved or has deteriorated and the extended rehabilitation services objectives have not been obtained consistent with the ITP; or
  - iii) Documentation in the client's clinical record that the client terminated participation in the program.
- 9) Staffing
  - A) Intensive stabilization services shall be delivered by a QMHP. Extended treatment and rehabilitation services may be delivered by a QMHP or MHP. Psychosocial rehabilitation day program services may be delivered by an MHP.
  - B) Intensive stabilization services shall have a minimum of one full-time equivalent (FTE) QMHP to every six adult clients (1:6) or 1:3 for child and adolescent clients, based on average daily attendance calculated annually.
  - C) Extended treatment and rehabilitation services shall have a minimum of one FTE MHP to 10 adult clients (1:10) or 1:6 for child and adolescent clients, based on average daily attendance calculated annually.
  - D) Psychosocial rehabilitation day program services shall have a minimum of one FTE MHP to 15 clients (1:15) based on average daily attendance calculated annually.
- h) Individual/family social rehabilitation
  - 1) Services shall be delivered following a mental health assessment, and shall be goal directed, clearly defined and focused on improving adaptive functioning deficits identified in the ITP. Services shall be provided individually or in a group setting on a face-to-face basis with the client or with the client and/or the client's family.
  - 3) Service eligibility shall include a determination that the client or the client and the client's family has adaptive functioning deficits for which social rehabilitation is the appropriate intervention.
  - 4) Service termination criteria shall include a determination that the service objectives have not and/or are unlikely to be met through continuation of this service or documentation in the client's clinical record that the client terminated participation in the program.
  - 5) Client/family social rehabilitation services shall be provided

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by WHPS MHP(s).

- i) Rehabilitative stabilization services
  - 1) Rehabilitative stabilization services shall be provided in accordance with specifications in the ITP in order to develop or maintain an adult's or child's functioning.
  - 2) Rehabilitative stabilization activities may include:
    - A) Parental functioning development;
    - B) Individual functioning development;
    - C) Self-management functioning development;
    - D) Parent-child interaction functioning development or sibling interaction functioning development;
    - E) Self-management development; and
    - F) Family management development.
  - 3) Responsibility for the provision of rehabilitative stabilization services shall be assumed by a person with no less than two years of human services experience or by an RSA.
  - j) Developmental rehabilitative services
    - 1) Developmental rehabilitative services shall be provided in accordance with an ITP to restore a child or adolescent to a maximum level of functioning.
    - 2) Developmental rehabilitative services may include time spent in activities using art, music, drama, play or recreation either individually or as a group activity.
    - 3) Responsibility for the provision of developmental rehabilitative services shall be assumed by an RSA.
    - 4) This service is restricted to a child who resides in a specialized substitute care living arrangement and is receiving comprehensive mental health services under subsection (k) of this Section.
    - k) Comprehensive mental health services
      - 1) Comprehensive mental health services shall be provided to a ~~client eligible-children-in accordance with the child's ITP~~ for the purpose of behavioral functioning changes which are necessary for the ~~client's~~ ~~chief~~ day-to-day role functioning.
      - 2) Comprehensive mental health services may be provided to a ~~client~~ ~~child~~ receiving care or services in a specialized substitute care living arrangement supervised by a certified provider which is under contract to the department, DCFS or DOC to provide specialized substitute care.
      - 3) Comprehensive mental health services shall be provided following the completion of an admission note and/or a mental health assessment and ITP.
        - A) Prior to the completion of an ITP, comprehensive mental health services shall be provided according to the admission note for a maximum of 14 days from the date of the client's admission.
        - B) A mental health assessment and ITP must be completed in

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accordance with subsections (c) and (d) of this Section within 14 days after a client's admission to a program providing comprehensive mental health services.

- C) Following completion of the mental health assessment and ITP, comprehensive mental health services shall be provided according to the client's ITP.
- 4) Comprehensive mental health services may include any of the services described in this Section and in Section 132.165.
- 5) Comprehensive mental health services shall be provided by individuals possessing the required qualifications for each discrete service.
- 1) Client-centered consultation
  - 1) Is provided on a face-to-face or personal contact basis for the purpose of implementing and/or evaluating the implementation of the client's ITP.
  - 2) May include:
    - A) A scheduled meeting or conference for professional communication among provider staff, staff of other agencies, and child care systems including school personnel or other professionals involved in the treatment process.
    - B) A scheduled meeting or conference for professional communication between provider staff and family members involved in the treatment process.
  - 3) Must be provided in conjunction with one or more rehabilitative mental health services as specified in this Section and in accordance with the ITP.
  - 4) Does not include advice given in the course of clinical staff supervisory activities, in-service training, treatment planning or utilization review and may not be billed as part of the assessment process.
  - 5) May be provided by a QMHP or MHP.
  - m) Intensive family-based services for children and adolescents
    - 1) Intensive family-based services:
      - A) Shall be provided to a child or adolescent with a mental illness and to his or her other family members as needed to support the rehabilitation and restoration of the child or adolescent to an optimal level of functioning and to reduce the risk of more restrictive treatment for the child or adolescent such as psychiatric hospitalization;
        - B) Are concentrated therapeutic activities which may include:
          - i) One-to-one counseling for therapeutic activities;
          - ii) Counseling related to ITP goals and objectives;
          - iii) Individual/family social rehabilitation related to the child's emotional deficits;
          - iv) Counseling in behavioral management; and
          - v) Assistance in household management related to the provision of mental illness-related care services for the child;

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- C) Are generally provided in-home or at other off-site locations and are made available when and where the needs of the child and family can best be met; and
- D) Must be provided in conjunction with other rehabilitative mental health services and are primarily used as a catalyst to stabilize acute crisis situations and/or to diffuse or avert a family crisis.
- 2) A client 17 years of age or younger and his or her family are eligible for services when the level of the client's or his or her family's role functioning requires in-home or other intensive therapeutic interventions to avoid more restrictive services such as inpatient hospitalization or other out of home placement.
- 3) Generally, termination criteria for intensive family based services shall include a determination that the child's and his or her family's level of role functioning has improved or has been stabilized to allow for transfer or referral to less intensive rehabilitative mental health services or case closure.
- 4) Services may be provided by an MHP.
- n) Assertive community treatment (ACT)
- 1) ACT is an inclusive array of community-based rehabilitative mental health services and supportive services for persons with serious mental illness who have a history of high use of psychiatric hospitalization and therefore require a well coordinated and integrated package of services, provided over an extended duration, in order to live successfully in the community of their choice.
  - 2) Eligibility criteria
    - A) Adult (18 and over) with frequent, lengthy or repeated admissions to State-operated facilities who meet one of the following criteria:
      - i) Three or more hospitalizations in a State-operated facility in the past 12 months; or
      - ii) Five or more hospitalizations in a State-operated facility in the past 24 months; or
      - iii) 180 days total length of stay in the past 12 months.
    - B) The Department may authorize ACT services for other specific target populations (e.g., persons who are homeless, who have a severe and persistent mental illness) or individuals based on the need for assertive community treatment level services.
  - 3) Termination criteria
 

Individuals may be served for as long as their needs dictate. However, if any individual consistently refuses to participate for a period of six months, he or she may be placed on an "inactive roster" and may be re-activated as needed.

The ACT team shall assume responsibility for assisting the individual to achieve, most importantly, decreased hospitalization and improved community functioning, to include:

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- A) Stabilizing the living arrangement, including obtaining and maintaining housing and other basic necessities, i.e., food and clothing, assisting the individual to obtain and maintain community living arrangements which afford safety and basic comforts, and providing ongoing services to ensure maintenance of the living arrangement during periods of institutional care, such as paying the rent and utilities;
- B) Prescription, including medication evaluation, education, and administration, self-administration monitoring and training (including delivery of medication as necessary). This further includes observing and reporting effects and side effects of prescribed medication;
- C) Money management, providing assistance in money management, budgeting, and applying for financial entitlements and entitlement, including becoming the representative payee; and
- D) General health, vision, hearing and dental, including access to services for assessment, on-going treatment, follow-up, medication management and compliance, providing training in obtaining medical services in emergencies and non-emergency situations.
- 5) The ACT team will include but not limit itself to the following activities:
- A) Linking individuals with resources and services;
  - B) Providing supportive counseling and problem-solving;
  - C) Assistance on an on-going basis and in times of crisis, including 24 hour crisis response;
  - D) Providing personal support and assistance in gaining access to other mental health treatment and rehabilitation services, vocational training, educational services, legal services, employment opportunities, leisure, recreation, religious and social activities and self-help groups;
  - E) Maintaining on-going involvement with the individual during stays in other environments such as State-operated facilities, convalescent care facilities, community hospitals or rehabilitation centers;
  - F) Accessing and providing training in obtaining medical services, emergency and non-emergency;
  - G) Advocating on behalf of the individual;
  - H) Providing information and educational and advocacy services to family members;
  - I) Developing natural community supports and fostering relationships with non-paid persons in the community such as neighbors, landlords and volunteers;
  - J) Assisting individuals with activities of daily living through skills training and acquisition of assistive devices; and
  - K) Providing or assisting with transportation.



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## 6) Staff qualification

The ACT team shall include a multi-disciplinary mix including mental health professionals and substance abuse treatment professionals. The team shall include a psychiatrist, a QMHP, and mental health professionals and may include RSAs. It is highly desirable to include a nurse and a certified alcoholism and other drug counselor, certified by the Illinois Alcohol and Other Drug Abuse Professional Association, Inc., as part of the team.

## 7) Service requirements

- A) ACT services shall be provided on a face-to-face or personal contact basis, with the client or on behalf of clients, with involved others, for the purpose of gaining access to treatment, rehabilitation and support services.
- B) Services may be provided following a determination of eligibility for ACT services and may commence prior to the completion of a comprehensive assessment and the development of the individual treatment plan when immediate assistance is needed to obtain food, shelter and clothing.
- C) Services shall be provided under the direction of a LPHA which is demonstrated by the LPHA's signature on the individual treatment plan.
- D) The individual treatment plan shall be developed within 45 days after completing the assessment.
- E) Case management may not be billed in combination with ACT services.
- F) A staff to client ratio of no more than 1:10 to 1:15 shall be maintained.

(Source: Amended at 24 Ill. Reg. 11.1.1, effective \_\_\_\_\_)

**Section 132.155 Family intervention, stabilization and reunification services**

- a) Services under this Section are provided to clients with substantial impairment in role functioning as indicated by an ICD-9-CM diagnosis and whom DCF has determined require services pursuant to one of its legal mandates for the purpose of assuring the protection and permanency of one or more child or adolescent members of the family, and who meet one or more of the following conditions:

- 1) A child for whom DCF is legally responsible and who is placed in a relative foster home, a licensed foster home, group home or, as permitted by federal law, a child care institution, or an undocumented child, when the child has been determined to be:

- A) be demonstrating behavioral and/or emotional responses so different from generally accepted age-appropriate, ethnic or cultural norms as to result in a significant impairment in self-care, social relationships, educational progress and

## DEPARTMENT OF HUMAN SERVICES

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behavior, work adjustment or family (or equivalent) adjustment; or

- B) Be at risk or has actually experienced separation from his or her family.

- 2) Members of the family of a child described in subsection (a) (1) of this Section when involvement of the child's family in services is identified as directly related to the child's problems and is also identified in the child's rehabilitative services plan.

- 3) A child for whom DCF is legally responsible or any other child served by DCF who resides with his or her parent or guardian and the child meets one of the criteria listed in subsection (a)(1) of this Section.

- 4) Members of the family served by DCF when the child who meets one of the criteria in subsection (a)(1) of this Section is residing with his or her parent or guardian and involvement of the family in services is directly related to resolving the child's problems as identified in the child's rehabilitative services plan.

- b) Services under this Section are provided to DOC youths with substantial impairments in role functioning as indicated by an ICD-9-CM diagnosis, who DOC has determined require services, and who demonstrate behavioral and/or emotional responses so different from generally accepted age-appropriate, ethnic or cultural norms as to result in a significant impairment in self-care, social relationships, educational progress and behavior work adjustment or family (or equivalent) adjustment.

- c) When the parent or guardian with whom the child resides has a DSM-IV diagnosis of mental illness and successful treatment of the illness is essential for the child's protection and/or permanency, services shall be provided in accordance with Section 132.150.

- d) Rehabilitative assessment

- 1) A rehabilitative assessment shall be initiated within 45 working days after a written referral or a verbal request which is confirmed in writing within 48 hours.

- 2) The rehabilitative assessment shall include a face-to-face or personal contact interview with the client and collaterals, as indicated.

- 3) A psychiatric evaluation, if applicable, shall be conducted by a physician on a face-to-face basis with the client.

- 4) A psychological assessment, if applicable, shall be conducted by a licensed clinical psychologist on a face-to-face basis with the client.

- 5) The rehabilitative assessment shall include at a minimum the items identified in Section 132.150(c)(6).

- 6) When the rehabilitative assessment results in the determination that additional services under this Section are required, such services shall be recommended by a physician or a LPHA.

- 7) Responsibility for the completed rehabilitative assessment shall

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be assumed by staff possessing a master's degree in human services or a bachelor's degree and having five years of human services experience who may be assisted by staff with a minimum of a bachelor's degree. A minimum of one face-to-face contact with the client and his or her family, and the client's guardian, if applicable, at the client's request or by agreement of the client, when the family can provide pertinent information or support, is required by the staff responsible for completing the rehabilitative services assessment.

- 8) A client determined to be in need of rehabilitative services shall receive a rehabilitative assessment prior to the determination of the specific rehabilitative services and the initiation of services. If the client is determined to be in need of immediate rehabilitative crisis intervention and stabilization services pursuant to subsection (f) of this Section, a rehabilitative assessment shall not be required prior to the initiation of rehabilitative crisis intervention and stabilization services.

- e) Rehabilitative services plan development, review and modification
- 1) The rehabilitative services plan shall be developed with the participation of the client and the client's guardian, if applicable. The plan shall be signed by the client, if 12 years of age or older, or by the parent or legal guardian of the minor client, the staff who developed the plan and the physician, LPMA or QMHP. A copy shall be given to the client, if not contraindicated, and the client's parent or guardian, if applicable, and incorporated in the client's record.

- 2) The rehabilitative services planning process consists of face-to-face contacts, collateral contacts and meetings with the client.

- 3) The rehabilitative services plan shall be developed within 45 days after the documented date of completing the rehabilitative services assessment. The rehabilitative services plan shall include a diagnosis as specified in the DSM-IV or ICD-9-CM.

- 4) The rehabilitative services plan shall state the overall goal of the services, identify the specific rehabilitative services to be provided, the duration of services and the anticipated outcomes.

- 5) Responsibility for development of the rehabilitative services plan shall be assumed by staff having at least a bachelor's degree with two years of human services experience.

- 6) The planning process for clients who also receive rehabilitative services under Section 132.150 shall comply with the provisions of Section 132.150(d).

- 7) A physician, LPMA or QMHP shall provide ongoing clinical direction of family intervention, stabilization and reunification services identified in the rehabilitative services plan. Such clinical direction includes reviewing the plan no less than once every six months and modifying the plan, as necessary.

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- 8) A physician or a LPMA shall determine the continuing necessity for services under this Section at least annually.

- 9) If multiple Department or DCS Medicaid certified providers are involved in providing services described in this Section, one master rehabilitative services plan shall be developed by the team of individuals responsible for providing the respective services.

f) Rehabilitative counseling

- 1) Rehabilitative counseling shall be provided in accordance with a rehabilitative services plan for the purpose of behavioral or functional changes in the eligible adult or child which are necessary for the individual's day-to-day functioning.
- 2) Rehabilitative counseling activities may include individual, group or family counseling.

- 3) Responsibility for the provision of rehabilitative counseling shall be assumed by an individual possessing at least a bachelor's degree in human services with one year of human services experience.

g) Rehabilitative crisis intervention and stabilization

- 1) Rehabilitative crisis intervention and stabilization services shall be provided to all eligible clients who are experiencing an acute crisis which threatens safety or functioning, or extrusion from the family.

- 2) Rehabilitative crisis intervention and stabilization shall include:

A) Immediate preliminary assessment;

B) Counseling; and

C) Referral to other applicable medically necessary rehabilitative services.

- 3) The rehabilitative crisis intervention and stabilization process consists of face-to-face or personal contact intervention with a client and short-term placement prevention services.

- 4) Rehabilitative crisis intervention and stabilization services shall be delivered by staff possessing a bachelor's degree in human services with one year of human services experience. Pre-psychiatric hospitalization screening shall be handled only by a QMHP or by an MPH with access to a QMHP who is available for immediate consultation and clinical supervision.

h) Rehabilitative consultation and review

- 1) Rehabilitative consultation and review activities are provided in accordance with a rehabilitative services plan.

- 2) Rehabilitative consultation and review activities may include:

A) Scheduled or unscheduled multidisciplinary case consultations with other external or internal professionals or agencies;

B) Attendance at and participation in required DCS or DOC case reviews including administrative case reviews; and

C) Participation in scheduled court hearings.

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- 3) Responsibility for rehabilitative consultation and review activities is limited to:
  - A) Staff serving as case managers/lead workers and their supervisors;
  - B) Staff meeting as part of a multidisciplinary consultation team; and/or
  - C) Staff participating in required DCFS or DOC reviews, including administrative case reviews.
- 1) Rehabilitative stabilization services shall be provided in accordance with specifications in a rehabilitative services plan in order to develop or maintain an adult's or child's functioning.
- 2) Rehabilitative stabilization activities may include:
  - A) Parental functioning development;
  - B) Individual functioning development;
  - C) Self-management functioning development;
  - D) Parent-child interaction functioning development or sibling interaction functioning development;
  - E) Self-management development; and
  - F) Family management development.
- 3) Responsibility for the provision of rehabilitative stabilization services shall be assumed by a person with no less than two years of human services experience or by a rehabilitative services associate (RSA).
- 3) Developmental rehabilitative services
  - 1) Developmental rehabilitative services shall be provided in accordance with a rehabilitative services plan to restore a child or adolescent to a maximum level of functioning.
  - 2) Developmental rehabilitative services may include time spent in activities using art, music, drama, play or recreation either to individuals or as a group activity.
  - 3) Responsibility for the provision of developmental rehabilitative services shall be assumed by an individual possessing a bachelor's degree plus no less than two years of human services experience or by an RSA.
- k) Comprehensive rehabilitative services
  - 1) Comprehensive rehabilitative services shall be provided to a client ~~eligible children in accordance with the children's iwp or rehabilitative services plan~~ for the purpose of behavioral or functional changes which are necessary for the client's ~~children's~~ day-to-day role functioning.
  - 2) Comprehensive rehabilitative services may be provided to a client ~~child-receiving case or services~~ in a specialized substitute care living arrangement supervised by a certified provider which is under contract to the Department, DCFS or DOC to provide specialized substitute care.
  - 3) Comprehensive rehabilitative services shall be provided following

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- the completion of an admission note and/or a rehabilitative assessment and RSP.
- A) Prior to completion of an RSP, comprehensive rehabilitative services shall be provided according to the admission note for a maximum of 14 days from the date of the client's admission.
  - B) A rehabilitative assessment and RSP must be completed in accordance with subsections (d) and (e) of this Section within 14 days of a client's admission to a program providing comprehensive rehabilitative services.
  - C) Following completion of the rehabilitative assessment and RSP, comprehensive rehabilitative services shall be provided according to the client's RSP.
  - 4)3 Comprehensive rehabilitative services may include any of the services described in subsections (a) through (j) of this Section and Section 132.170.
  - 5)4 Comprehensive rehabilitative services shall be provided by individuals possessing the required qualifications for each discrete service.
    - 1) Short-term diagnostic and rehabilitative services shall be provided to eligible children for the purpose of behavioral or functional changes which are necessary for the child's day-to-day functioning.
    - 2) Short-term diagnostic and rehabilitative services may be provided to a child receiving care or services in a specialized substitute care living arrangement.
    - 3) Short-term diagnostic and rehabilitative services may include any of the services described in subsections (a) through (j) of this Section and Section 132.170.
    - 4) Short-term diagnostic and rehabilitative services shall be provided by individuals possessing the required qualifications for each discrete service.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: The Taking of Wild Turkeys - Spring Season2) Code Citation: 17 Ill. Adm. Code 7103) Section Numbers: Adopted Action:

710.10 Amendments

710.25 Amendments

710.28 Repealed

710.30 Amendments

710.30 Amendments

710.35 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

5) Effective Date of Amendments: November 27, 20006) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 1, 2000, 24 Ill. Reg. 1315110) Has JCRR issued a Statement of Objection to these amendments? No

11) Differences between Proposal and final version: Section 710.25 was added to the Sections being amended; underscored language was added:

**Section 710.25 Turkey Permit Requirements - Special Hunts**

a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for turkey hunting, which issue turkey hunting permits through the statewide lottery process. The Permit Office issues turkey hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 710.50(c).

Crab Orchard National Wildlife Refuge (check-in and check-out required at Visitor Information Center, windshield card required, area closed 1/2 hour after sunset to 1 1/2 hours before sunrise, scouting allowed

## DEPARTMENT OF NATURAL RESOURCES

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## after noon including the afternoon of the day prior to the permitted hunting season]

Savanna Army Depot (Jo Daviess County)

b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources, or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

In Section 710.30(d), the spelling of the following was corrected: Osidian-knapped

In Section 710.30(f), "turkey(s)" was changed to "turkeys"

In Section 710.30(j), underscored text was added:

j) for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;

In Section 710.50, a new subsection (a) was added and subsequent subsections relabeled:

a) Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.

In Section 710.50(c), underscored text was added:

Horseshoe Lake Conservation Area - (controlled goose hunting area and public hunting area only) (1)

In Section 710.50(d), the following 2 sites were added:

Jim Edgar Panther Creek State Fish and Wildlife Area

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Jim Edgar Panther Creek State Fish and Wildlife Area West Open Unit

In Section 710.50(d), the following site was deleted:

Panther-Creek-Conservation-Area

In Section 710.50(d), underscored language was added:

Red Hills State Park/Chauncey Marsh

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Amendments to this Part change season dates, open additional counties to turkey hunting, make it illegal to utilize decoys operated by electricity, eliminate the turkey check station requirement and require turkey hunters to phone in their harvest and open and close State-owned or -managed sites.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price  
Department of Natural Resources  
524 S. Second Street, Room 430  
Springfield IL 62701-1787  
217/782-1809

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

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## TITLE 17: CONSERVATION

## CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER e: LAW ENFORCEMENT

## PART 710

## THE TAKING OF WILD TURKEYS - SPRING SEASON

## Section

710.5 Hunting Zones

710.10 Hunting Seasons

710.20 Statewide Turkey Permit Requirements

710.21 Turkey Permit Requirements - Special Hunts (Renumbered)

710.22 Turkey Permit Requirements - Landowner/Tenant Permits

710.25 Turkey Permit Requirements - Special Hunts

710.28 Turkey Permit Requirements - Heritage Youth Turkey Hunt

710.30 Turkey Hunting Regulations (Repealed)

710.40 Other Regulations (Repealed)

710.50 Regulations at Various Department Owned or Managed Sites

710.55 Special Hunts for Disabled Hunters

710.60 Releasing or Stocking of Turkeys

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10 and 2.11 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10 and 2.11].

**SOURCE:** Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 1956, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 3730, effective \_\_\_\_\_.

Section 710.10 Hunting Seasons



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## a) Northern Zone Season Dates:

1st Season: Monday, April 16 - Friday, April 20,  
20012000

2nd Season: Saturday, April 21 - Thursday, April 26,  
20012000

3rd Season: Friday, April 27 - Friday, April May 4,  
20012000

4th Season: Saturday, May 5 - Wednesday, May 16,  
197 20012000

## b) Southern Zone Season Dates:

1st Season: Monday, April 9 - Friday, April 13,  
20012000

2nd Season: Saturday, April 14 - Thursday, April 19,  
20012000

3rd Season: Friday, April 20 - Friday, April 27,  
20012000

4th Season: Saturday, April 28 - Wednesday, May 3,  
20012000

## c) Open Counties:

NORTHERN ZONE  
 Adams  
 Boone  
 Brown  
 Bureau  
 Calhoun  
 Carroll  
 Cass  
 Christian  
 Clark  
 Coles  
 Cumberland  
 DeKalb  
 DeWitt  
 Edgar  
 Fulton  
 Greene  
 Grundy  
 Hancock

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Henderson  
 Henry  
 Jersey  
 Jo Daviess  
 Kankakee  
 Knox  
 LaSalle  
 Lee  
 Logan  
 Macon  
 Macoupin  
 Marshall-Putnam  
 Mason  
 McDonough  
 Menard  
 Mercer  
 Montgomery  
 Morgan  
 Ogle  
 Peoria  
 Piatt  
 Pike  
 Rock Island  
 Sangamon  
 Schuyler  
 Scott  
 Shelby  
 Stark  
 Stephenson  
 Tazewell  
 Vermillion  
 Warren  
 Whiteside  
 Winnebago  
 Woodford

SOUTHERN ZONE  
 Alexander  
 Bond  
 Clay  
 Clinton  
 Crawford  
 Edwards  
 Effingham  
 Fayette  
 Franklin  
 Hamilton  
 Gallatin-Hardin  
 Jackson

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENTS

Jasper  
Jefferson  
Johnson  
Lawrence  
Madison  
Marion  
Massac  
Monroe  
Perry  
Pope  
Putaski  
Randolph  
Richland  
Salline  
St. Clair  
Union  
Wabash  
Washington  
Warrick  
White  
Williamson

(Source: Amended at 24 Ill. Reg. 1778, effective 11/17/78)

## Section 710.25 Turkey Permit Requirements - Special Hunts

- a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for turkey hunting, which issue turkey hunting permits through the statewide lottery process. The Permit Office issues turkey hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 710.50(c).

Crab Orchard National Wildlife Refuge (check-in and check-out required at Visitor Information Center, windshield card required, area closed 1/2 hour after sunset to 1 1/2 hours before sunrise, scouting allowed after noon including the afternoon of the day prior to the permitted hunting season)

Savanna Army Depot (Jo Daviess County)

- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources, or the application will be returned. Applicants should not send sent cash with their applications. The Department will not be responsible for cash sent

## DEPARTMENT OF NATURAL RESOURCES

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though the mail.

(Source: Amended at 24 Ill. Reg. 1778, effective 11/17/78)

## Section 710.28 Turkey Permit Requirements - Heritage Youth Turkey Hunt (Repealed)

- a) The Heritage Youth Turkey Hunt is defined as a youth-only turkey hunt. The Heritage Youth Turkey Hunt is open only to Illinois residents who will be at least 18 years of age but not have reached their 18th birthday by the start of the Heritage Turkey Hunt. All participating youths must have completed a Department-approved Hunter Education course. All youth hunters must have a currently valid Heritage Youth Turkey Permit (\$10). For permit application and other information write to:

Illinois Department of Natural Resources

Division of Education

Public Events & Promotions

524 S. Second Street, Room 536

Springfield, IL 62763-1787

- b) This program is co-sponsored by the Illinois Department of Natural Resources and the National Wild Turkey Federation (NWTF) and its member agencies. Applicants must complete the official Department Heritage Youth Turkey Permit application. No application will be accepted by the Department which does not have a \$10 permit fee.

- d) The season dates and open counties will be determined annually by the Director of the Illinois Department of Natural Resources. The number of permits issued will be in addition to the established county permit quotas. The dates of the application period for permits will be publicly announced annually by the Department.

- e) The applicants must be Illinois residents and not have had their turkey hunting privileges suspended or revoked in this State.

- f) If more than one application for an Illinois Heritage Youth Turkey Hunt permit is received from the same person, all applications submitted in that name will be rejected and permits revoked.

- g) Successful applicants will be notified by mail when and where they should report to receive their permit. Permits shall be issued at the time of the hunt. All permit holders shall be required to attend an instructional session preceding the hunt.

- h) Each Illinois Heritage Youth Turkey Hunt permit holder is required to be accompanied by a parent/guardian or responsible adult who possesses a valid firearm. Owners identification (P.O.#) is required. The accompanying adult must be present for the permit holder (youth) to hunt. The adult is not allowed to hunt but may call.

- i) The Heritage Youth Turkey Hunting permit will only be valid for the

(Source: Repealed at 24 Ill. Reg. 1778, effective 11/17/78)

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(AMV 2/7/2000)

## Section 710.30 Turkey Hunting Regulations

## It is unlawful:

- to use live or electronic turkey decoys, recorded calls, dogs, or bait (an area is considered as baited during the presence of and for 10 consecutive days following the removal of the bait);
- to take any wild turkey except a hen with a visible beard or a gobbler (male);
- to take, or attempt to take, more than three wild turkeys during the spring season, one must have a valid permit for each turkey that is taken;
- to use any weapon except a shotgun or bow and arrow. #4 shot is the largest and #7 1/2 is the smallest size shot that may be legally used. Archers may use a long, recurved, or compound bow with a minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbed and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. Any mechanical device capable of maintaining a drawn position or partially drawn position on a bow is illegal. All other bows and arrows, including electronic arrow tracking systems, are illegal;
- to hunt except from 1/2 hour before sunrise to noon during each day of the season;
- for any person having taken the legal limit of wild turkeys ~~to~~ to further participate with a weapon in any hunting party for the purpose of taking additional wild turkeys;
- for any person to possess while in the field during wild turkey season any turkey permit issued to another person (permits are non-transferable);
- to transport or leave a wild turkey without first affixing the adhesive-backed turkey permit securely around the leg. Leg tag must be affixed to the turkey immediately upon kill and before the turkey is moved, transported or field dressed. Successful hunters must register their harvest by 2:00 p.m. on the same calendar day as the turkey was taken by calling the toll-free telephone number provided with their turkey hunting permit. Hunters must provide all information requested by the telephone check-in system, and will be provided with a confirmation number to verify that they checked in their harvest. The confirmation number must be written by the hunter onto the leg tag. The leg tag must remain attached to the leg of the turkey until it is at the legal residence of the person who legally took or possessed the turkey and the turkey has been checked in. The turkey must remain whole (or field dressed) until it has been checked in ~~the wild turkey shot is taken whole--for--field--dressed--to--the--designated--check~~

## DEPARTMENT OF NATURAL RESOURCES

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(AMV 2/7/2000)

~~station--for--the--county--in--which--it--was--killed--or--the--closest--check--station--by--the--hunter--in--person--by--2:00--P.M.--the--same--day--it--was--killed--it--will--be--checked--tagged--and--recorded--by--the--Department--at--the--check--station--the--leg--tag--must--remain--attached--to--the--leg--of--the--turkey--until--it--is--at--the--legal--residence--of--the--person--who--legally--took--or--possessed--the--turkey.~~

- for any person to shoot a wild turkey while it is in a tree before 7:00 a.m.;
- for any person to hunt wild turkeys without possessing a Wild Turkey Hunting Permit which shall include the hunter's signature recorded on the permit and carried on the person while hunting, except that a person without a weapon may accompany a turkey hunter as a caller or observer;
- for any person to use a turkey call that imitates sounds made by a turkey or to attempt to call a turkey by making these sounds while in the field in the Southern Zone from March 15 through the day before the 1st turkey season and in the Northern Zone from March 22 through the day before the 1st turkey season. This prohibition only applies in counties open to spring turkey hunting.

(Source: Amended AMV 2/7/2000 24 Ill. Reg. 4.07.7.8, effective 4.07.7.8)

## Section 710.50 Regulations at Various Department Owned or Managed Sites

- Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations must contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent shall make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.
- Hunters must sign in/sign out at all sites in subsections (c)(4) and (d)(c) which are followed by a (1).
- Statewide regulations shall apply for the following sites:

Anderson Lake Conservation Area (1)

Argyle Lake State Park (1)

Cache River State Natural Area (1)

Campbell Pond Wildlife Management Area

Carlyle Lake Wildlife Management Area

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Cypress Pond State Natural Area (1)  
 Dog Island Wildlife Management Area (1)  
 Ferne Clyffe State Park - Cedar Draper Bluff Hunting Area (1)  
 Fort de Chartres State Historic Site (muzzleloading shotgun or archery only) (1)  
 Franklin Creek State Park (1)  
 Giant City State Park (1)  
 Horseshoe Lake Conservation Area - Alexander County (controlled goose hunting area and public hunting area only) (1)  
 I-24 Wildlife Management Area (1)  
 Jubilee State Park (archery only) (1)  
 Kaskaskia River State Fish and Wildlife Area (except for that area lying north of Highway 154, east of the Kaskaskia River, and south of the Risdon School Road and Beck's Landing access road) (1)  
 Kinkaid Lake Fish and Wildlife Area (1)  
 Mark Twain National Wildlife Refuge, Gardner Division  
 Mississippi River Fish and Wildlife Area (Pools 25 and 26)  
 Mississippi River Pools 16, 17, 18, 21, 22, and 24  
 Oakford Conservation Area  
 Pere Marquette State Park (designated area only) (1)  
 Ray Norbut Fish and Wildlife Area (1)  
 Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park State-Fish-and-Wildlife-Area  
 Saline County Fish and Wildlife Area (1)  
 Sanganois Conservation Area (site issued free permit required)  
 Stelbeck Forest State Natural Area (1)

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Trail of Tears State Forest (1)  
 Turkey Bluffs State Fish and Wildlife Area (1)  
 Union County Conservation Area - Firing Line Unit and Public Hunting Area only (1)  
 Weinberg-King State Park (1)  
 Wildcat Hollow State Forest (1)  
 de) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.  
 Apple River Canyon State Park - Thompson and Salem Units (1)  
 Beaver Dam State Park  
 Big Bend State Fish and Wildlife Area (1)  
 Big River State Forest (1)  
 Castle Rock State Park (1)  
 Chaucey Marsh  
 Clinton Lake State Recreation Area (1)  
 Coffeen Lake State Fish and Wildlife Area  
 Crawford County Conservation Area  
 East Conant  
 Ferne Clyffe Hunting Area (1)  
 Fort Massac State Park (Youth Ages 10-15 only) (1)  
 Fox Ridge State Park (1)  
 Green River State Wildlife Area (1)  
 Hamilton County Conservation Area  
 Harry 'Babe' Woodyard State Natural Area (1)

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Hidden Springs State Forest (first 2 seasons only) (1)  
 Horseshoe Lake State Park (Madison County)  
 Hurricane Creek Habitat Area (must have Fox Ridge State Park permit) (1)  
 Jim Edgar Panther Creek State Fish and Wildlife Area  
 Jim Edgar Panther Creek State Fish and Wildlife Area West Open Unit  
 Johnson-Sauk Trail State Park (1)  
 Kickapoo State Park (1)  
 Lake Shelbyville-Corps of Engineers Managed Lands (Shelby County)  
 Lowden Miller State Forest (1)  
 Mackinaw River Fish and Wildlife Area (1)  
 Marseilles Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from one-half hour before sunrise until 8:30 a.m.) (1)  
 Marshall Fish and Wildlife Area (1)  
 Mernmet Lake State Fish and Wildlife Area (1)  
 Middlefork State Fish and Wildlife Management Area (1)  
 Mississippi Palisades State Park (closes after the second Sunday of the fourth season; fourth season permits will be limited to those remaining after the disabled hunt drawing) (1)  
 Momence Wetlands (1)  
 Newton Lake Fish and Wildlife Area  
**Panther Creek Conservation Area**  
 Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends)  
 Pyramid State Park (1)  
 Ramsey Lake State Park (1)

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Randolph County Conservation Area (1)  
 Red Hills State Park/Chauncey Marsh  
 Sahara Woods (1)  
 Sam Dale Lake Conservation Area (1)  
 Sam Parr State Park  
 Sand Ridge State Forest  
 Sangamon County Conservation Area  
 Sangamon Conservation Area (Squirrel Timber Unit) (1)  
 Sangchris Lake State Park (1)  
 Sato  
 Siloam Springs State Park (1)  
 Site M  
 Stephen A. Forbes State Park (1)  
 Tapley Woods State Natural Area (1)  
 Ten Mile Creek Fish and Wildlife Area  
 Witkowsky State Wildlife Area (1)  
 Wolf Creek State Park (first 2 seasons only) (1)  
 (Source: Amended 27 2000 24 Ill. Reg. 1778 effective

## Section 710.55 Special Hunts for Disabled Hunters

Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20, except as noted. Permits are only valid for the specific site and season indicated on the permit. Disabled hunters must possess a Class FZA disability card in order to be eligible for the drawing. Statewide regulations shall apply; season dates shall be the 4th season; permit applications may be obtained from the appropriate Illinois Department of Natural Resources regional office; and completed applications must be returned to that office by December



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1) Disabled hunters must possess a Class F2A disability card in order to be eligible for the drawing. Additional site accessibility practices will be publicly announced.

Mississippi Palisades State Park closes after the second Sunday of the 4th season (hunters must sign in and out.)

Mermet Lake State Fish and Wildlife Area

Mississippi Palisades State Park (permits allocated through site office) closes after second Sunday of the 4th season)

(Source: Amended at 24 Ill. Reg. 177.7.8, effective 11/17/07)

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1) Heading of the Part: Cigarette Tax Act

2) Code Citation: 86 Ill. Adm. Code 440

3) Section Numbers: 440.50  
Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 130

5) Effective Date of Amendments: November 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 21, 2000, 24 Ill. Reg. 10569

10) Has JCAR issued a Statement of Objection to these Amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

13) Will this amendment replace an emergency amendment currently in effect?  
Yes

14) Are there any amendments pending on this Part? Yes

Section Numbers Proposed Action IL Register Citation  
440.240 New Section 9/22/00, 24 Ill. Reg. 14189

15) Summary and Purpose of Amendments: Amends the Cigarette Tax Act by providing that on and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that (1) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or (2) does not comply with all requirements imposed by or pursuant to federal law regarding warnings and other information on

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packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to, the precise warning labels specified in the Federal Cigarette Labeling and Advertising Act, 15 USC 333; and all federal trademark and copyright laws. Also provides that on and after June 13, 2000, no cigarettes or other tobacco products may be imported into the United States if the cigarettes or other tobacco products are imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations. Also provides that on and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the Federal Cigarette Labeling and Advertising Act, 15 USC 1335a; or has been altered prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure any statement, label, stamp, sticker, or notice required; or any health warning that is not specified in, or does not conform with the requirements of, the Federal Cigarette Labeling and Advertising Act, 15 USC 1333.

16) Information and questions regarding this adopted amendment shall be directed to:

Terry Charlton  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

The full text of the adopted amendment begins on the next page:

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUE

PART 440  
CIGARETTE TAX ACT

Section	Nature and Rate of Tax
440.10	Tax—How Paid
440.20	Tax—Who Liable For
440.30	Design
440.40	Tax Stamps—When and By Whom Affixed: License or Permit Required
440.50	Tax Stamps—How Affixed
440.60	Tax Stamps—Refund Out of State
440.70	Tax Stamps—Purchase of: Cost: Discount
440.80	Tax Stamps—Permits
440.90	Tax Stamps—Required: When Filled
440.100	Books and Records: Examination: Preservation
440.110	Unused Stamps and Meter Units: Sale of: Notice to Department
440.120	Mutilated Stamps
440.130	Tax Meters (Repealed)
440.140	Tax Meter Machine Settings (Repealed)
440.150	Vending Machines
440.160	Sales Out of Illinois
440.170	Sales to Governmental Bodies
440.180	Sample Packages of Cigarettes: Stamps or Other Evidence of Tax Payment Affixed
440.190	Claim for Replacement
440.200	Sale of Forfeited Cigarettes and Vending Machines
440.210	Tax-Free Sales of Cigarettes for Use Aboard Ships Operating in Foreign Commerce Outside The Continental Limits of the United States
440.220	Claims for Credit or Refund
440.230	

AUTHORITY: Implementing and authorized by the Cigarette Tax Act [35 ILCS 130].

SOURCE: Filed and effective June 17, 1958; amended at 6 Ill. Reg. 2831 and 2834, effective March 3, 1982; codified at 8 Ill. Reg. 17912; amended at 13 Ill. Reg. 10678, effective June 16, 1989; amended at 14 Ill. Reg. 6794, effective April 19, 1990; amended at 15 Ill. Reg. 117, effective December 24, 1990; emergency amendment at 23 Ill. Reg. 9541, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14748, effective December 8, 1999; amended at 24 Ill. Reg. 9903, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10752, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 17783, effective 11/19/00.

Section 440.50 Tax Stamps—When and By Whom Affixed: License or Permit Required

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- a) The Department, or any person authorized by the Department, will sell tax stamps only to licensed distributors. It shall be unlawful for any person to engage in the business as a distributor of cigarettes in this State without first having obtained a license or permit therefor from the Department. Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the said Department and shall be accompanied by a joint and several bond in the amount of \$2,500-00. Except when the applicant is the manufacturer, no distributor's license shall be issued to an applicant unless he presents the Department with satisfactory proof in writing that he will be able to buy cigarettes directly from at least 3 major cigarette manufacturers. Each licensed place of business shall be covered by a separate license.
- b) The annual license fee payable to the Department for each distributor's license shall be \$250-00. The purpose of such annual license fee is to defray the cost, to the Department, of coding, serializing or coding and serializing cigarette tax stamps. Each applicant for license shall pay such fee to the Department at the time of submitting his application for license to the Department.
- c) All licenses issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- d) The Department may, in its discretion, upon application, issue permits authorizing the payment of the tax imposed by the Act by out-of-State cigarette manufacturers who are not required to be licensed as distributors of cigarettes in this State, but who elect to qualify under the Act as distributors of cigarettes in this State, and who, to the satisfaction of the Department, furnish adequate security to insure payment of the tax, provided that any such permit shall extend only to cigarettes which such permittee-manufacturer places in original packages that are contained inside a sealed transparent wrapper.
- e) All permits issued by the Department under the Cigarette Tax Act shall be valid for not to exceed one year after issuance unless sooner revoked, canceled or suspended as in the Act provided.
- f) The following are ineligible to receive a distributor's license or permit under this Act:
  - 1) A person who is not of good character and reputation in the community in which he resides;
  - 2) A person who has been convicted of a felony under any Federal or State law, if the Department, after investigation and a hearing, if requested by the applicant, determines that such person has not been sufficiently rehabilitated to warrant the public trust;
  - 3) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% (in the case of distributors) or 1% (in the case of out-of-State cigarette manufacturer permittees) of the stock of such corporation, would not be eligible to receive a license

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- g) under this Act for any reason.
- g) The first distributor who delivers cigarettes or causes them to be delivered in this State to a purchaser must affix proper stamp or stamps to each original package of such cigarettes before delivering such cigarettes (or causing them to be delivered) in this State to the purchaser, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) to imprint the required language on the original package of cigarettes beneath such outside wrapper, as provided in Section 440.20(b) of this Part.
- h) On and after July 22, 1999, no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Tax Act [35 ILCS 1301], the Department shall revoke the license of any distributor that is determined to have violated this subsection (h). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 490.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner. (Section 3 of the Cigarette Tax Act)
- i) On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Tax Act.
- j) On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (h) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.
- k) On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:
  - 1) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording;
  - 2) does not comply with:
    - a) all requirements imposed by or pursuant to federal law

## DEPARTMENT OF REVENUE

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regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 1333i, and

- B) all federal trademark and copyright laws;
- 3) is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;
- 4) the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;
- 5) for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarettes Labeling and Advertising Act, 15 USC 1335a; or
- 6) has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:
  - A) any statement, label, stamp, sticker, or notice described in subsection (k)(1) of this Section; or
  - B) any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333. [Section 3-10 of the Act]

- 1) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a distributor create a rebuttable presumption that the package of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Tax Act.

- m) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (k) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrapper or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Tax Act.

- n) On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States, to which the person has affixed the tax stamp in the preceding month:

- 1) a copy of:

- A) the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

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- B) the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;
- 2) a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale;

- 3) in addition to the statement required in subsection (n)(2) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes;

- 4) in addition to the statement required in subsections (n)(2) and (n)(3) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:
  - A) the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and

- B) the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-1713146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.

- o) The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any the acts prohibited in subsection (k) of this Section or had failed to comply with any of the requirements of subsection (l) of this Section. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes involved or \$5000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (k) of this Section shall be subject to seizure and forfeiture whether the violation is knowing or otherwise. [Section 3-10 of the Act]

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

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- 1) Heading of the Part: Cigarette Use Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 450
- 3) Section Numbers: Adopted Action:  
450.10 Amendment
- 4) Statutory Authority: 35 ILCS 135
- 5) Effective Date of Amendments: November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 21, 2000, 24 Ill. Reg. 10591
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?  
Yes
- 14) Are there any amendments pending on this Part? Yes

- |                            |                                |  |
|----------------------------|--------------------------------|--|
| Section Numbers<br>450.130 | Proposed Action<br>New Section | IL Register Citation<br>09/22/00, 24 Ill. Reg. 14193 |
|----------------------------|--------------------------------|--|
- 15) Summary and Purpose of Amendment(s): Amends the Cigarette Use Tax Act by providing that on and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that (1) bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or (2) does not comply with all requirements imposed by or pursuant to federal law regarding warnings and other information on

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packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 333; and all federal trademark and copyright laws. Also provides that on and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that is imported into the United States in violation of 26 USC 5754 or any other federal law, or implementing federal regulations. Also provides that on and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States; which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 USC 1335a; or has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure any statement, label, stamp, sticker, or notice required; or any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Terry Charlton  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

The full text of the adopted amendment begins on the next page:



## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

## PART 450

## CIGARETTE USE TAX ACT

Section	Nature and Rate of Tax
450.10	Tax Stamps--Affixed Out of State
450.20	Licenses and Permits--Bonds
450.30	Reports and Returns
450.40	Books and Records
450.50	Unused Stamps and Meter
450.60	Department--Mutilated Stamps--Tax Meter Machine Settings
450.70	Cigarettes Used Outside Illinois
450.80	Purchase of Cigarettes by Governmental Bodies for Use
450.90	Claim for Replacement
450.100	Sample Packages of Cigarettes--Stamps or Other Evidence of Tax Collection Affixed
450.110	Sale of Forfeited Cigarettes and Vending Machines
450.120	Claims for Credit or Refund

**AUTHORITY:** Implementing and authorized by the Cigarette Use Tax Act [35 ILCS 135].

**SOURCE:** Filed and effective June 17, 1958; codified at 8 Ill. Reg. 13838; amended at 13 Ill. Reg. 10687, effective June 16, 1989; amended at 14 Ill. Reg. 6804, effective April 19, 1990; amended at 15 Ill. Reg. 122, effective December 24, 1990; amended by emergency rulemaking at 23 Ill. Reg. 9546, effective July 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14753, effective December 8, 1999; amended at 24 Ill. Reg. 9909, effective June 23, 2000; emergency amendment at 24 Ill. Reg. 10759, effective July 6, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. ~~14753~~, effective

**Section 450.10 Nature and Rate of Tax**

- The Cigarette Use Tax is imposed upon the privilege of using cigarettes in this State, and the tax rate is 29 mills per cigarette so used or 58 cents on a package of 20 cigarettes.
- The tax must be collected by a distributor maintaining a place of business in this State or a distributor authorized by Section 7 of the Act to hold a permit to collect such tax, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor and must be stated on the invoice as a separate item from the selling price of the cigarettes except when the purchaser is a Federal or foreign government agency or instrumentality (see Section 450.50 of this Part).

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- Distributors who are not subject to the Cigarette Tax Act [35 ILCS 130] (the Act), but who are subject to the Cigarette Use Tax Act [35 ILCS 135], must remit, to the Department of Revenue (the Department), the amount of Cigarette Use Tax to be collected by them through the purchase and affixation of tax stamps or meter impression units (where the use of meters is authorized by the Department) to any original package of cigarettes before delivering such cigarettes (or causing them to be delivered) in this State to any purchaser, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) by imprinting the language to be prescribed by the Department on the original package of cigarettes beneath such outside wrapper.

- On and after July 22, 1999, no stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the Federal Cigarette Labeling and Advertising Act, 15 USC 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6 of the Cigarette Use Tax Act [35 ILCS 135], the Department shall revoke the license of any distributor that is determined to have violated this subsection (c)(1). A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this subsection that the label or notice has been removed, mutilated, obliterated, or altered in any manner.
- (Section 3 of the Cigarette Use Tax Act)  
On and after August 15, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.
- On and after September 1, 1999, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(1) and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers, or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.
- On and after June 13, 2000, no stamp or imprint may be affixed to, or made upon, any package of cigarettes that:
  - bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold distributed or used in the United States, including but not limited to labels stating "For

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Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

B) does not comply with:

1) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including but not limited to the precise warning labels specified in the federal Cigarette Labeling and Advertising Act, 15 USC 1333; and

ii) all federal trademark and copyright laws;

C) is imported into the United States in violation of 26 USC 5754 or any other federal law or implementing federal regulations;

D) the person affixing the stamp or imprint otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed, or used in the United States;

E) for which there has not been submitted to the Secretary of the U.S. Department of Health and Human Services the list or lists of the ingredients added to tobacco in the manufacture of the cigarettes required by the federal Cigarette Labeling and Advertising Act, 15 USC 1335a; or

F) has been altered, prior to sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

1) any statement, label, stamp, sticker, or notice described in 86 Ill. Adm. Code 440.50(k)(1); or

ii) any health warning that is not specified in, or does not conform with the requirements of, the federal Cigarette Labeling and Advertising Act, 15 USC 1333 (Section 3-10 of the Act).

5) On and after July 15, 2000, packages of cigarettes, cigarette papers, wrappers, or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a distributor create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted in violation of the Cigarette Use Tax Act.

6) On and after July 31, 2000, packages of cigarettes, cigarette papers, wrappers or tubes stamped or imprinted in a manner not in accordance with subsection (c)(4) of this Section and found in the possession of a retailer create a rebuttable presumption that the packages of cigarettes, cigarette papers, wrappers or tubes were stamped or imprinted by the distributor from whom they were obtained in violation of the Cigarette Use Tax Act.

7) On and after June 13, 2000, on the first business day of each month, each person licensed to affix the State tax stamp to cigarettes shall file with the Department, for all cigarettes imported into the United States to which the person has affixed

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the tax stamp in the preceding month;

8) a copy of:

A) the permit issued pursuant to the Internal Revenue Code, 26 USC 5713, to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

B) the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;

9) a statement, signed by the person under penalty of perjury, which shall be treated as confidential by the Department and exempt from disclosure under the Freedom of Information Act, identifying the brand and brand styles of all such cigarettes, the quantity of each brand style of such cigarettes, the supplier of such cigarettes, and the person or persons, if any, to whom such cigarettes have been conveyed for resale; and

10) in addition to the statement required in subsection (c)(9) of this Section, a separate statement, signed by the individual under penalty of perjury, which shall not be treated as confidential or exempt from disclosure, separately identifying the brands and brand styles of such cigarettes;

11) In addition to the statement required in subsection (c)(9) and (c)(10) of this Section, a separate statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with:

A) the package health warning and ingredient reporting requirements of the federal Cigarette Labeling and Advertising Act, 15 USC 1333 and 1335a, with respect to such cigarettes; and

B) the provisions of Exhibit T of the Master Settlement Agreement entered in the case of People of the State of Illinois v. Philip Morris, et al. (Circuit Court of Cook County, No. 96-113146), including a statement indicating whether the manufacturer is, or is not, a participating tobacco manufacturer within the meaning of Exhibit T.

12) The Department may revoke or suspend the license or licenses of any distributor, in the manner provided in Section 6 of the Cigarette Use Tax Act, if the Department determines that the distributor knew or had reason to know that the distributor was committing any of the acts prohibited in subsection (c)(4) of this Section or had failed to comply with any of the requirements of subsection (b) of Section 3-10 of the Cigarette Use Tax Act. In addition, the Department may impose on the distributor a civil penalty in an amount not to exceed the greater of \$008 of the retail value of the cigarettes involved or \$5,000. Cigarettes acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this State in violation of subsection (c)(4) of this Section shall be subject to seizure

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*and forfeiture whether the violation is knowing or otherwise.*

(Section 3-10 of the Act)

- d) At the time of purchasing stamps from the Department or any person authorized by the Department, when purchase of the stamps is required by the Cigarette Use Tax Act or at the time when the tax which he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department or any person authorized by the Department when that method of remitting the tax that has been collected is required or authorized by the Act, the distributor will be allowed a discount during any year commencing July 1 and ending the following June 30. The discount shall be equal to 1.75% of the amount of the tax payable under the Act up to and including the amount of \$3,000,000.00 paid by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid by such distributor to the Department during any such year.
- e) This discount is to cover the distributor's cost of collecting the tax.
- f) Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.
- g) On and after December 1, 1985, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes (i.e. a standard bank draft which the distributor may post-date), and which shall be payable within 30 days thereafter: provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the Bond required under Section 4 of the Act, payable to the Department in an amount equal to 100% of such distributor's average monthly tax liability under the Act during the preceding calendar year or \$750,000.00, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under the Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft. Prior continuous compliance taxpayers, as defined in Section 1 of the Act, are exempt from the bond requirements noted above. (Section 3 of the Act) For additional information concerning the exemption, refer to Section 3 of the Act.
- h) The Cigarette Use Tax collected by a distributor who is liable to collect and remit a like amount of tax with respect to the same

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cigarettes under the Cigarette Tax Act need not be remitted to the Department under the Cigarette Use Tax Act. In other words, the amount which the distributor is liable to collect and remit under the Cigarette Tax Act with respect to particular cigarettes is offset against the amount collected from the purchaser by such distributor under the Cigarette Use Tax Act with respect to the same cigarettes. Sections 3 and 10 of the Cigarette Use Tax Act permit this offset in order to avoid the double remittance of tax to the State on the same transactions in the case of sales of cigarettes in Illinois.

- i) In those instances in which a distributor is required to affix tax stamps or meter impressions to original packages of cigarettes under the Cigarette Use Tax Act, rather than under the Cigarette Tax Act, the provisions of the part relating to the Cigarette Tax Act (86 Ill. Adm. Code 440) shall apply and are incorporated herein by reference.
- j) Where cigarettes are acquired for use in this State without Illinois tax stamps being affixed to the original packages thereof and without authorized tax imprints placed underneath the sealed transparent wrapper of such original packages, the user is required to remit the amount of the Cigarette Use Tax directly to the Department. Such tax should be remitted to the Department by the user within 3 days after he acquires such cigarettes.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: County Water Commission Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 630

3) Section Numbers: Adopted Action:  
630.120 Amendment

4) Statutory Authority: 70 ILCS 3720

5) Effective Date of Amendment(s): November 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11170

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect?  
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90-552). Also makes other clarifying changes.

16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUE

## PART 630

## COUNTY WATER COMMISSION RETAILERS' OCCUPATION TAX

Section	Nature and Rate of the County Water Commission Retailers' Occupation Tax
630.101	Tax
630.105	Exemptions from the County Water Commission Retailers' Occupation Tax
630.110	Registration and Returns
630.115	Claims to Recover Erroneously Paid Tax
630.120	Jurisdictional Questions
630.125	Incorporation of Retailers' Occupation Tax Regulations by Reference
630.130	Penalties, Interest and Procedures
630.135	Effective Date

**AUTHORITY:** Implementing Section 4(b) of the Water Commission Act of 1985 (70 ILCS 3720) and authorized by Section 2505-25 of the Civil Administrative Code of Illinois (20 ILCS 2505/2505-25).

**SOURCE:** Adopted at 13 Ill. Reg. 3362, effective June 6, 1989; amended at 15 Ill. Reg. 5762, effective April 5, 1991; amended at 24 Ill. Reg. 1-1-1, effective \_\_\_\_\_.

## Section 630.120 Jurisdictional Questions

## a) Mere Solicitation of Orders not Doing Business

1) For a seller to incur County Water Commission Retailers' Occupation Tax liability in the territory of the Commission, the sale must be made in the course of such seller's engaging in the retail business within such territory. In other words, enough of the selling activity must occur within such territory to justify concluding that the seller is engaged in business within such territory with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county or territory of the Commission as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

## b) Seller's Acceptance of Order

1) Without attempting to anticipate every kind of fact situation

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that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the territory of the County Water Commission (Commission) which imposes the County Water Commission Retailers' Occupation Tax or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within such territory or by someone working out of such place of business, the seller incurs County Water Commission Retailers' Occupation Tax liability in such territory if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.

2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

3) Regardless of the place at which the purchase order is accepted, where tangible personal property is located within such territory at the time of its sale (or is subsequently produced in the territory) then delivered in Illinois to the purchaser, and no municipality or county outside such territory where the tangible personal property is located in this State would receive or would have the power to impose a County Water Commission Retailers' Occupation Tax with respect to such sale, the seller will be considered to be engaged in business in such territory for County Water Commission Retailers' Occupation Tax purposes with respect to such sale.

## c) Some Considerations Which are not Controlling

1) Delivery of the property within the territory to the purchaser is not necessary for the seller to incur County Water Commission Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the territory for the seller to be regarded as being engaged in the business of selling within the territory with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs County Water Commission Retailers' Occupation Tax liability.



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Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the territory" in Section 4 of the Water Commission Act of 1985 refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made.

- d) Place of Business Where Long Term or Blanket Contracts are Involved Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for County Water Commission Retailers' Occupation Tax purposes with respect to such orders. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Retailers' Occupation Tax Act.)

- e) Sales Through Vending Machines The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

- f) Sales From Vehicles Carrying Uncommitted Stock of Goods The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made - the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

- g) Sales of Coal or Other Minerals

- 1) For the purpose of determining whether the County Water Commission Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

- 2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

- 3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail

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or motor, ~~railroads or other carriers~~ for their own use outside Illinois if the purchasing carrier takes delivery of the property in the territory of Illinois and transports it over its own line to an out-of-State destination.

- 4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (retail sale) is the final sale to the user, and the County Water Commission Retailers' Occupation Tax on the sale will be applicable if the retailer is located in such territory that imposes a County Water Commission Retailers' Occupation Tax.

(Source: Amended at 24 Ill. Reg. 17009, effective           )

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1) Heading of the Part: Hotel Operators' Occupation Tax Act

2) Code Citation: 86 Ill. Adm. Code 480

3) Section Numbers:  
480.101 Adopted Action:  
Amendment

4) Statutory Authority: 35 ILCS 145

5) Effective Date of Amendment: November 28, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11162

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect?  
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: Clarifies the exemption based upon federal treaty for rentals to certain diplomatic personnel.

16) Information and questions regarding this adopted amendment shall be directed to:  
Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

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The full text of the adopted amendment begins on the next page:

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUEPART 480  
HOTEL OPERATORS' OCCUPATION TAX ACT

Section	Nature, Rate and Scope of the Tax
480.101	Definitions
480.103	Registration and Returns
480.110	Books and Records
480.115	Penalties, Interest and Procedures
480.120	Claims to Recover Wrongfully Paid Tax

**AUTHORITY:** Implementing the Hotel Operators' Occupation Tax Act [35 ILCS 145] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

**SOURCE:** Adopted July 6, 1962; codified at 8 Ill. Reg. 8611; amended at 13 Ill. Reg. 10693, effective June 16, 1989; amended at 16 Ill. Reg. 3578, effective February 25, 1992; amended at 21 Ill. Reg. 2383, effective February 3, 1997; amended at 21 Ill. Reg. 13654, effective September 29, 1997; amended at 24 Ill. Reg. 1114, effective \_\_\_\_\_.

**Section 480.101 Nature, Rate and Scope of the Tax**

- a) Nature and Rate of Tax
- 1) The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of 5% of 94% of the gross rental receipts from such renting, leasing or letting, excluding, however, from said gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of such hotel (i.e., from persons who occupy or have the right to occupy such rooms for at least thirty consecutive days).
  - 2) There is also imposed an additional tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel at the rate of 1% of 94% of the gross rental receipts from such renting, leasing or letting, excluding, however, from gross rental receipts, the proceeds of such renting, leasing or letting to permanent residents of that hotel.
  - 3) A hotel is any kind of building in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. (For a more complete definition of "hotel", see Section 480.105 of this Part.)
  - 4) The exclusion for permanent residents means that the tax is imposed on the business of renting rooms for use as living quarters, or for sleeping or housekeeping accommodations, where

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- 5) such renting is done on a transient basis.
- 6) The tax is an occupation tax whose legal incidence is on the lessor of the rooms. Nevertheless, persons subject to the tax imposed by the Hotel Operators' Occupation Tax Act may reimburse themselves for their tax liability under the Act by separately stating such tax as an additional charge, which charge may be imposed in combination, in a single amount, with any locally imposed Hotel Operators' Occupation Tax.
- 6) Any amount added to a taxable rental charge and collected because of the tax also represents a portion of the gross rental receipts that are subject to the tax. However, the tax rate, instead of being a flat 6% of total receipts, has been adjusted by the General Assembly so as to be 5% of 94% plus 1% of 94% of total receipts, in order to avoid the payment of tax on amounts which are added to rental charges because of the tax.
- b) Scope of the Tax—Examples of Taxability and Exemption
  - 1) Since The Hotel Operators' Occupation Tax is imposed on receipts from renting rooms for living quarters, or for sleeping or housekeeping accommodations, the tax does not apply to the receipts from the renting of rooms for other purposes, such as for use as display rooms or sample rooms, as meeting rooms, as offices or as private dining rooms.
  - 2) Since the tax is limited to the renting of rooms to the "public", a private club which restricts its renting of rooms to its members and their guests would not be liable for the tax on its rental receipts from such rooms.
  - 3) The business of renting rooms to the public for use as living quarters, or for sleeping or housekeeping accommodations, is subject to the tax even if the person paying for the room may be a church, charity or school or some other kind of nonprofit organization, and even if the person paying for the room may be a governmental agency or instrumentality (Federal, State or local, or even a foreign government).
  - 4) There is no exemption simply because the lessor of the rooms is a nonprofit organization, such as a church, charity or school. However, a college or other school is not subject to the tax on its receipts from renting rooms to its students for use as living quarters or for sleeping or housekeeping accommodations because this is not the renting of the rooms to the "public". Nevertheless, if the school rents rooms for such purposes to persons who are not enrolled with the school in courses of study for credit, such renting is not being done to students, but is being done to the "public", and the school incurs Hotel Operators' Occupation Tax liability on its rental receipts from this activity, if such lessees do not qualify as permanent residents.
  - 5) Likewise, the renting of rooms on a transient basis to the public for use as living quarters or sleeping or housekeeping

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accommodations where the lessor is a charitable organization, such as the Y.M.C.A. or the Y.W.C.A., is subject to The Hotel Operators' Occupation Tax.

- 6) If an operator should make a separate and specific charge for the use of bedding or other facilities furnished in connection with the use of a room as living quarters or for sleeping or housekeeping accommodations, the operator's additional receipts from this source are subject to The Hotel Operators' Occupation Tax. However, that tax does not apply to the operator's receipts from selling food, beverages or other tangible personal property, nor to receipts from the selling of tickets to theatre performances or other similar activities, nor to other receipts which are not in any way reasonably connected with or attributable to the renting, leasing or letting of rooms for use as living quarters or for sleeping or housekeeping accommodations. Provided that exemption for such nontaxable receipts cannot be claimed unless supported by proper books and records as provided for in Section 4 of The Hotel Operators' Occupation Tax Act and in Section 480.115 of this Part.

- 7) The Hotel Operators' Occupation Tax is not imposed upon gross rental receipts for which the hotel operator is prohibited from obtaining reimbursement for the tax from the customer by reason of a Federal treaty (Section 3 of the Act). Under the Vienna Convention, some foreign diplomats are not required to pay reimbursement charges that are similar in nature to taxes. The exemption for rentals to certain diplomatic personnel applies only to diplomatic personnel possessing certain types of diplomatic tax exemption cards issued by the U.S. Department of State, Office of Foreign Missions. There are 2 types of diplomatic tax exemption cards: personal tax exemption cards and mission tax exemption cards. For each of these categories, 2 types of color-coded cards are issued: a blue-striped card that allows an individual or mission to make purchases exempt from all sales and use taxes and taxes on hotel rooms and a striped card that allows an individual or mission to make tax-exempt purchases in all purchase categories except for the restricted purchase categories printed on the colored stripe. For examples, see 80 Ill. Adm. Code 130.111 Illustration A.

In documenting this exemption, a hotel operator must obtain the mission's name, the card holder's name, the exemption number, the expiration date, and the color of the stripe on the card, or a photocopy of the diplomatic card.

- c) How to Compute Applicable Tax Rate or Effective Date of New Tax
- 1) For the purposes of The Hotel Operators' Occupation Tax Act, any tax liability incurred in respect to the renting, leasing or letting of rooms in a hotel shall be computed by applying, to the gross receipts from such renting, leasing or letting, the tax

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rate in effect as of the date when the lessee occupies a specific room or rooms or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. Deposits paid in advance shall be deemed to be received as rental receipts when the specific room or rooms to which such deposit is applied as rent shall be deemed to be rented, leased or let within the meaning of the preceding sentence.

- 2) Likewise, when something that has been exempted becomes taxable as to room renting, leasing or letting that occurs on or after some particular date, the date of renting, leasing or letting for this purpose shall be deemed to be the date when the lessee occupies a specific room or rooms or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms.

(Source: Amended at 24 Ill. Reg. 178.14, effective

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- 1) Heading of the Part: Metro East Mass Transit District Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 370
- 3) Section Numbers: Adopted Action:  
370.115 Amendment
- 4) Statutory Authority: 70 ILCS 3610
- 5) Effective Date of Amendments: November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register:  
July 28 2000, 24 Ill. Reg. 11202

- 10) Has JCAR issued a Statement of Objections to these Amendments? No

- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90- 552). Also makes other clarifying changes.

- 16) Information and questions regarding this adopted amendment shall be directed to:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

The full text of the adopted amendment begins on the next page:



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TITLE 96: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUE

## PART 370

METRO EAST MASS TRANSIT DISTRICT  
RETAILERS' OCCUPATION TAX

Section	Nature of a Metro East Mass Transit District Retailers' Occupation Tax
370.101	Registration and Returns
370.105	Claims to Recover Erroneously Paid Tax
370.110	Jurisdictional Questions
370.115	Incorporation of Retailers' Occupation Tax Regulations by Reference
370.120	Penalties, Interest and Procedures
370.125	Effective Date
370.130	

**AUTHORITY:** Authorized by and implementing Section 5.01 of the Local Mass Transit District Act [70 ILCS 36.10].

**SOURCE:** Adopted at 5 Ill. Reg. 5899, effective May 28, 1981; codified at 6 Ill. Reg. 9696; amended at 15 Ill. Reg. 5805, effective April 5, 1991; amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 370.115 Jurisdictional Questions

## a) Mere Solicitation of Orders not Doing Business

1) For a seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability in the district, the sale must be made in the course of such seller's engaging in the retail business within the district. In other words, enough of the selling activity must occur within the district to justify concluding that the seller is engaged in business within the district with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

## b) Seller's Acceptance of Order:

1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase

order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the district or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the district or by someone working out of such place of business, the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability in the district if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.

2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

3) If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within the district at the time of its sale (or is subsequently produced in the region) then delivered in Illinois to the purchaser, the seller will be considered to be engaged in business in the district for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such sale.

## c) Some Considerations Which are not Controlling

1) Delivery of the property within the district to the purchaser is not necessary for the seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for interstate commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the district for the seller to be regarded as being engaged in the business of selling within the district with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the district" in Section 5.01(b) of the Local Mass Transit District Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v.

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Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.) \*\*\*

- d) Place of Business where Long Term or Blanket Contracts are involved Under a long term blanket or master contract which (though defined as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such orders.

- e) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

- f) Sales From Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

- g) Sales of Coal or Other Minerals

1) For the purpose of determining whether the Metro East Mass Transit District Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing

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carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.

- 4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Metro East Mass Transit District Retailers' Occupation Tax on the sale will be applicable if the retailer is located in the district.

(Source: Amended at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 95 Ill. Adm. Code 500
- 3) Section Numbers: Adopted Action:  
500.240 Repeal
- 4) Statutory Authority: 35 ILCS 505
- 5) Effective Date of Amendment: November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
July 23, 2000, 24 Ill. Reg. 11221
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Repeals a Section that is no longer applicable due to the dyed diesel program that was implemented in accordance with Public Act 91-173.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
217/782-6996

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The full text of the adopted amendment begins on the next page:

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TITLE 86: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUE

## PART 500

## MOTOR FUEL TAX

## SUBPART A: DEFINITIONS

## Section

500.100

Definitions

500.101

Definition of Receiver (Repealed)

500.102

Definition of Loss (Repealed)

## SUBPART B: MOTOR FUEL TAX

## Section

500.200

Basis and Rate of the Motor Fuel Tax

500.201

Licensee

500.202

Basis and Rate of Tax Payable by Receivers

500.203

Monthly Returns

500.204

Report of Loss of Motor Fuel

500.205

Daily Gallonage Record

500.206

Special Fuel Sold or Used for Non-Highway Purposes

500.210

Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers

500.215

Documentation of Tax-free Sales of Fuel Made by Licensed Receivers

500.220

Vehicles of Distributors Transporting Petroleum Products (Repealed)

500.225

Other Vehicles (Repealed)

500.230

Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers

500.235

Claims for Refund - Invoices

500.240

Sales of Special Fuel - Variation in Usage (Repealed)

500.245

Estimated Claims

500.250

Claimants Owning Motor Vehicles (Repealed)

500.255

Detailed Answers

500.260

Revocation of License, Etc. - Notice - Hearing

500.265

Distributors' and Suppliers' Claims for Credit or Refund

500.270

Receivers' Claims for Credit

500.275

Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit

500.280

Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems

500.285

Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas

500.290

When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)

500.295

Cost of Collection - Determination (Repealed)

500.297

Protest Procedures for Certain Penalties

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## SUBPART C: MOTOR FUEL USE TAX

## Section

500.300

Licensee

500.301

Special Motor Fuel Permits and Decals (Repealed)

500.302

Motor Carrier's Quarterly Report (Repealed)

500.305

Licenses and Decals

500.310

Display of License and Decals

500.315

Renewal of Decals and Licenses

500.320

Single Trip Permits

500.325

Licensee of Lessors and Lessees

500.330

Cancellation of License

500.335

Quarterly Payment and Reporting

500.340

Credits and Refunds

500.345

Records Requirements

500.350

Revocation

500.355

Protest Procedures

500.360

Audits

## SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

## Section

500.400

General Information

500.405

Due Date That Falls on Saturday, Sunday or a Holiday

## SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

## Section

500.500

Licenses and Permits Are Not Transferable

500.501

Blenders' Permits Are Not Transferable (Repealed)

500.505

Changes of Corporate Officers

## SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

## Section

500.600

Incorporation of the Retailers' Occupation Tax Regulations by Reference

**AUTHORITY:** Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 2505-20 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-20].

**SOURCE:** Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill. Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill.

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Reg. 13771, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 40168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. 14917, effective August 3, 1998; amended at 22 Ill. Reg. 16322, effective August 25, 1998; amended at 22 Ill. Reg. 20299, effective December 1, 1998; emergency amendment at 24 Ill. Reg. 880, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6918, effective April 21, 2000; amended at 24 Ill. Reg. 7737, effective

SUBPART B: MOTOR FUEL TAX

Section 500.240 Sales of Special Fuel - Variation in Usage (Repealed)

When Special Fuel is delivered into the fuel supply tank of self-propelled highway construction or maintenance equipment which will be used in a dual capacity both for the improving, maintaining or repairing of highways and the propelling of equipment to and from the job site, a certification may be given by the purchaser as to the percentage of the purchase that will be for taxable use--39% for non-highway use--10% for highway use. In lieu of any certification as to the percentage of the purchase representing taxable use, the Department will presume that not less than 10% of the purchase was for a taxable highway use.

(Source: Repealed at 24 Ill. Reg. 11316, effective \_\_\_\_\_)

DEPARTMENT OF REVENUE  
NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Non-Home Rule Municipal Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 693
- 3) Section Numbers:  
693.101 New Section  
693.105 New Section  
693.110 New Section  
693.115 New Section  
693.120 New Section  
693.125 New Section  
693.130 New Section
- 4) Statutory Authority: 65 ILCS 5
- 5) Effective Date of Rules: November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11226
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Implements Public Act 91-0649, which provides that on and after January 1, 2002, the corporate authorities of a non-home rule municipality are authorized to impose the Non-Home Rule Municipal Retailers' Occupation Tax.
- 16) Information and questions regarding these adopted rules shall be directed to:



## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED RULES

Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
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The full text of the adopted rules begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED RULES

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 693

## NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

## Section

693.101 Nature of the Non-Home Rule Municipal Retailers' Occupation Tax  
693.105 Registration and Returns  
693.110 Claims to Recover Erroneously Paid Tax  
693.115 Jurisdictional Questions  
693.120 Retailers' Occupation Tax Regulations  
693.125 Penalties, Interest and Procedures  
693.130 Effective Date

**AUTHORITY:** Implementing the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15]).

**SOURCE:** Adopted at 24 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 693.101 Nature of the Non-Home Rule Municipal Retailers' Occupation Tax**

a) Authority to Impose Tax

On and after January 1, 2002, the corporate authorities of a non-home rule municipality are authorized by the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] to impose the Non-Home Rule Municipal Retailers' Occupation Tax on all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property that is titled and registered by an agency of this State's government, at retail in the municipality on the gross receipts from sales made in the course of the business within the municipality, if a proposition for the tax has been submitted to the electors of that municipality and approved by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of 1/2 of 1% for expenditure on public infrastructure as defined in Section 8-11-1.2 of the Illinois Municipal Code. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by the corporate authorities under the Non-Home Rule Municipal Retailers' Occupation Tax Act and this Part, and all civil penalties that may be assessed as an incident of that Act or this

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Part, shall be collected and enforced by the Illinois Department of Revenue (Department).

b) The legal incidence of the Non-Home Rule Municipal Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Non-Home Rule Municipal Retailers' Occupation Tax Act to reimburse themselves for their Non-Home Rule Municipal Retailers' Occupation Tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to the bracket schedules the Department has prescribed (see 86 Ill. Adm. Code 150.7(a)(4)).

c) Exclusion from "Gross Receipts". Any amount added to the selling price of tangible personal property by the seller because of a Non-Home Rule Municipal Retailers' Occupation Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois Use Tax [35 ILCS 105], the Metro East Mass Transit District Retailers' Occupation Tax [70 ILCS 3610/5.01], the Regional Transportation Authority Retailers' Occupation Tax [70 ILCS 3615/4.03] or the County Water Commission Retailers' Occupation Tax [70 ILCS 3720/4(b)], and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to the Non-Home Rule Municipal Retailers' Occupation Tax.

**Section 693.105 Registration and Returns**

a) Separate Registration Not Required. A retailer's registration under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the Non-Home Rule Municipal Retailers' Occupation Tax Act. No special registration for the Non-Home Rule Municipal Retailers' Occupation Tax is required.

b) Requirements as to Returns. 1) The information required for the Non-Home Rule Municipal Retailers' Occupation Tax shall be furnished on the Retailers' Occupation Tax return form filed by the retailer.

2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Non-Home Rule Municipal Retailers' Occupation Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report Non-Home Rule Municipal Retailers' Occupation Tax information in his returns on the gross sales basis.

**Section 693.110 Claims to Recover Erroneously Paid Tax**

Claims for Multiple Taxes. If a claimant files a claim for refund on a transaction that was subject to State and local taxes administered by the

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Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued that may be used by the claimant or his authorized assignee to pay State or local tax liability as authorized in 86 Ill. Adm. Code 130.1505(b)(1).

**Section 693.115 Jurisdictional Questions**

a) Municipal and Municipality Defined. When used in this part, "municipal" and "municipality" mean a city, village, or incorporated town, including an incorporated town that has superseded a civil township.

b) Mere Solicitation of Orders Not Doing Business

1) For a seller to incur Non-Home Rule Municipal Retailers' Occupation Tax liability in a given municipality, the sale must be made in the course of the seller's engaging in the retail business within that municipality. In other words, enough of the selling activity must occur within the municipality to justify concluding that the seller is engaged in business within the municipality with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where the orders were subject to acceptance outside the taxing jurisdiction and title passed outside the jurisdiction, with the goods being shipped from outside the jurisdiction to the purchaser in the jurisdiction, did not constitute engaging in the business of selling within the jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to the municipality as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

c) Seller's Acceptance of Order

1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of business within the municipality or by someone who is working out of that place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order that is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the municipality or by someone working out of that place of business, the seller incurs Non-Home Rule Municipal Retailers' Occupation Tax liability in that municipality if the sale is at retail and the purchaser receives the physical possession of the property in

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Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives the purchase order from the purchaser in the absence of clear proof to the contrary.

- 2) If a purchase order is accepted outside this State, but the tangible personal property that is sold is in an inventory of the retailer located within the municipality at the time of its sale (or is subsequently produced in the municipality), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the municipality) will determine where the seller is engaged in business for Non-Home Rule Municipal Retailers' Occupation Tax purposes with respect to the sale.

- d) Some Considerations That Are Not Controlling

- 1) Delivery of the property within the municipality to the purchaser is not necessary for the seller to incur Non-Home Rule Municipal Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intermunicipality commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the municipality for the seller to be regarded as being engaged in the business of selling within the municipality with respect to that sale.

- 2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether the seller incurs Non-Home Rule Municipal Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in such municipality" in the Non-Home Rule Municipal Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)

- e) Place of Business Where Long Term or Blanket Contracts Are Involved Under a long term blanket or master contract that (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Non-Home Rule Municipal Retailers' Occupation Tax purposes with respect to the orders.

- f) Sales Through Vending Machines  
The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when

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the sales are made.

- g) Sales from Vehicles Carrying Uncommitted Stock of Goods  
The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries happen to be made -- the vehicle carrying the stock of goods for sale being regarded as a portable place of business.

- h) Sales of Coal or Other Minerals

For the purpose of determining the tax that is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

- 1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- 2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the municipality and transports it to an out-of-State destination.
- 3) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Non-Home Rule Municipal Retailers' Occupation Tax on that sale will go to the municipality where the retailer is located.

## Section 693.120 Retailers' Occupation Tax Regulations

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130) that are not incompatible with the Non-Home Rule Municipal Retailers' Occupation Tax Act shall apply to the tax imposed pursuant to this Part.

## Section 693.125 Penalties, Interest and Procedures

All penalties (both civil and criminal) and provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural

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subjects), together with statutes of limitation, are the same under the Non-Home Rule Municipal Retailers' Occupation Tax Act as under the Illinois Retailers' Occupation Tax Act [35 ILCS 120].

## Section 693.130 Effective Date

For enforcement of the Non-Home Rule Municipal Retailers' Occupation Tax on January 1, 2002, an ordinance or resolution imposing the tax shall be adopted and a certified copy filed with the Department no earlier than October 2, 2000 and no later than October 1, 2001. After the filing, the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January 2002. Thereafter, an ordinance or resolution imposing or discontinuing the Non-Home Rule Municipal Retailers' Occupation Tax shall be adopted and a certified copy filed with the Department on or before the first day of October. After the filing, the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following the adoption and filing. For purposes of determining which tax rate applies, the date of the sale is deemed to be the date of the delivery of the property.

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## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Non-Home Rule Municipal Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 694
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
694.101	New Section
694.105	New Section
694.110	New Section
694.115	New Section
694.120	New Section
694.125	New Section
694.130	New Section
- 4) Statutory Authority: 65 ILCS 5
- 5) Effective Date of Rules: November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11234
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Implements Public Act 91-0649, which provides that on and after January 1, 2002, the corporate authorities of a non-home rule municipality are authorized to impose the Non-Home Rule Municipal Service Occupation Tax.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

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Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6996

The full text of the adopted rules begins on the next page:

DEPARTMENT OF REVENUE  
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TITLE 96: REVENUE  
CHAPTER 1: DEPARTMENT OF REVENUE

PART 694  
NON-HOME RULE MUNICIPAL SERVICE OCCUPATION TAX

Section	
694.101	Nature of the Non-Home Rule Municipal Service Occupation Tax
694.105	Registration and Returns
694.110	Claims to Recover Erroneously Paid Tax
694.115	Jurisdictional Questions
694.120	Service Occupation Tax Regulations
694.125	Penalties, Interest and Procedures
694.130	Effective Date

AUTHORITY: Implementing the Non-Home Rule Municipal Service Occupation Tax Act [65 ILCS 5/8-11-1.4] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15].

SOURCE: Adopted at 24 Ill. Reg. 17639, effective 1/1/99.

Section 694.101 Nature of the Non-Home Rule Municipal Service Occupation Tax

a) Authority to Impose Tax

On and after January 1, 2002, the corporate authorities of a non-home rule municipality are authorized by the Non-Home Rule Municipal Service Occupation Tax Act [65 ILCS 5/8-11-1.4] to impose the Non-Home Rule Municipal Service Occupation Tax on all persons engaged in the business of making sales of service in the municipality, if a proposition for the tax has been submitted to the electors of that municipality and approved by a majority of those voting on the question. If imposed, the tax shall only be imposed at a rate of 1/2 of 1% of the selling price of all tangible personal property transferred by the servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service for expenditure on public infrastructure as defined in Section 8-11-1.2 of the Illinois Municipal Code. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by the corporate authorities under the Non-Home Rule Municipal Service Occupation Tax Act and this Part, and all civil penalties that may be assessed as an incident of that act and this Part, shall be collected and enforced by the Illinois Department of Revenue (Department).



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- b) **Passing on the Tax**  
The legal incidence of the Non-Home Rule Municipal Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Non-Home Rule Municipal Service Occupation Tax Act to reimburse themselves for their Non-Home Rule Municipal Service Occupation Tax liability by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are required to collect under the Service Use Tax Act [35 ILCS 110], pursuant to the bracket schedules the Department has prescribed (see 86 Ill. Adm. Code 150-Table A).
- c) **Exclusion from "Cost Price"**  
Any amount added by a serviceman to the selling price of tangible personal property as an incident to service because of a Non-Home Rule Municipal Service Occupation Tax, or because of the Illinois Service Occupation Tax [35 ILCS 115], the Illinois Use Tax [35 ILCS 105], the Metro East Mass Transit District Service Occupation Tax [70 ILCS 3610/5.01], the Regional Transportation Authority Service Occupation Tax [70 ILCS 3615/4.03] or the County Water Commission Service Occupation Tax [70 ILCS 3720/4(c)], shall not be regarded as a part of the selling price that is subject to the Non-Home Rule Municipal Service Occupation Tax.
- Section 694.105 Registration and Returns**
- a) A serviceman's registration under the Illinois Service Occupation Tax Act [35 ILCS 115] or the Illinois Retailer's Occupation Tax Act [35 ILCS 120] is sufficient for the Non-Home Rule Municipal Service Occupation Tax Act. No special registration for the Non-Home Rule Municipal Service Occupation Tax is required.
- b) The information required for the Non-Home Rule Municipal Service Occupation Tax shall be furnished on the taxpayer's Service Occupation Tax return form.

**Section 694.110 Claims to Recover Erroneously Paid Tax**

Claims for Multiple Taxes. If a claimant files a claim for refund on a transaction that was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued that may be used by the claimant or his authorized assignee to pay State or local tax liability as authorized in 86 Ill. Adm. Code 140.1505(b)(1).

**Section 694.115 Jurisdictional Questions**

DEPARTMENT OF REVENUE  
NOTICE OF ADOPTED RULES

- a) When used in this Part, "municipal" and "municipality" mean a city, village, or incorporated town, including an incorporated town that has superseded a civil township.
- b) If the Illinois Service Occupation Tax on a transaction is being remitted to the Department by the serviceman, the serviceman shall also pay Non-Home Rule Service Occupation Tax to the Department on the same transaction if the serviceman's place of business is located in the municipality.

**Section 694.120 Service Occupation Tax Regulations**

To avoid needless repetition, the substance and provisions of all Service Occupation Tax regulations (86 Ill. Adm. Code 140) that are not incompatible with the Non-Home Rule Municipal Service Occupation Tax Act shall apply to the tax imposed pursuant to this Part.

**Section 694.125 Penalties, Interest and Procedures**

All penalties (both civil and criminal) and provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Non-Home Rule Municipal Service Occupation Tax Act as under the Illinois Service Occupation Tax Act [35 ILCS 115].

**Section 694.130 Effective Date**

For enforcement of the Non-Home Rule Municipal Service Occupation Tax on January 1, 2002, an ordinance or resolution imposing the tax shall be adopted and a certified copy filed with the Department no earlier than October 2, 2000 and no later than October 1, 2001. After the filing the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January 2002. Thereafter, an ordinance or resolution imposing or discontinuing the Non-Home Rule Municipal Service Occupation Tax shall be adopted and a certified copy filed with the Department on or before the first day of October. After the filing the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of January next following the adoption and filing. For purposes of determining which tax rate applies, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property that the serviceman retransfers as an incident to service.

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Special County Retailers' Occupation Tax For Public Safety
- 2) Code Citation: 86 Ill. Adm. Code 670
- 3) Section Numbers: Adopted Action:  
670.115 Amendment
- 4) Statutory Authority: 55 ILCS 5
- 5) Effective Date of Amendment(s): November 28, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 28, 2000, 24 Ill. Reg. 11249

- 10) Has JCAR issued a Statement of Objections to these Amendments? No

- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will this amendment replace an emergency amendment currently in effect?  
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendment(s): With regard to sales of coal or other minerals, this rulemaking defines "extracted from the earth" as the location at which coal or other minerals are extracted from the mouth of the mine. Also provides the exemption for tangible personal property sold to certain common carriers by motor (Public Act 90-552). Also makes other clarifying changes.

- 16) Information and questions regarding this adopted amendment shall be directed to:

## DEPARTMENT OF REVENUE

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Gina Roccaforte  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

The full text of the Adopted Amendment begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 670

## SPECIAL COUNTY RETAILERS' OCCUPATION TAX FOR PUBLIC SAFETY

Section 670.101	Nature of the Special County Retailers' Occupation Tax For Public Safety
670.105	Registration and Returns
670.110	Claims to Recover Erroneously Paid Tax
670.115	Jurisdictional Questions
670.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
670.125	Penalties, Interest and Procedures
670.130	Effective Date

**AUTHORITY:** Implementing Section 5-1006.5 of the Special County Occupation Tax For Public Safety law of the Counties Code [55 ILCS 5/5-1006.5] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

**SOURCE:** Adopted at 20 Ill. Reg. 13065, effective September 24, 1996; amended at 22 Ill. Reg. 14926, effective August 3, 1998; amended at 24 Ill. Reg. 8140, effective May 26, 2000; amended at 24 Ill. Reg. ~~12444~~, effective \_\_\_\_\_.

## Section 670.115 Jurisdictional Questions

- a) County Defined
 

When used in this Part, "county" includes all territory located within the county, including all territory within cities, villages or incorporated towns, including an incorporated town which has superseded a civil township.
- b) Mere Solicitation of Orders not Doing Business
  - 1) For a seller to incur Special County Retailers' Occupation Tax For Public Safety liability in a given county, the sale must be made in the course of such seller's engaging in the retail business within such county. In other words, enough of the selling activity must occur within the county to justify concluding that the seller is engaged in business within the county with respect to that sale.
  - 2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

## c) Seller's Acceptance of Order

- 1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (g) and (h) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the county or by someone working out of such place of business, the seller incurs Special County Retailers' Occupation Tax For Public Safety liability in that county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.
- 2) If a purchase order is accepted outside this State, but the tangible personal property which is sold is in an inventory of the retailer located within a county at the time of its sale (or is subsequently produced in the county ~~if it is~~), then delivered in Illinois to the purchaser, the place where the property is located at the time of the sale (or subsequent production in the county if it is) will determine where the seller is engaged in business for Special County Retailers' Occupation Tax For Public Safety purposes with respect to such sale.
- d) Some Considerations that are not Controlling
  - 1) Delivery of the property within the county to the purchaser is not necessary for the seller to incur Special County Retailers' Occupation Tax For Public Safety liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercounty commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within such county with respect to that sale.
  - 2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs

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Special County Retailers' Occupation Tax For Public Safety liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the Special County Retailers' Occupation Tax For Public Safety Law refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made. (See Standard Oil Company v. Department of Finance, et al., 383 Ill. 136 (1934), for a similar problem under the Illinois Retailers' Occupation Tax Act.)

- e) Place of Business Where Long Term or Blanket Contracts are Involved Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Special County Retailers' Occupation Tax For Public Safety purposes with respect to such orders.

- f) Sales Through Vending Machines The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

- g) Sales from Vehicles Carrying Uncommitted Stock of Goods The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

- h) Sales of Coal or Other Minerals For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this Section, "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.

- 1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel, and any other thing commonly regarded as a mineral and extracted from the earth.

- 2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend,

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however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the county. ~~It is not~~ and transports it over its own line to an out-of-State destination.

- 3) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Special County Retailers' Occupation Tax For Public Safety on that sale will go to the county where the retailer is located.

(Source: Amended at 24 Ill. Reg. 17344, effective 1/1/44)

DEPARTMENT OF LABOR  
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Illinois Child Labor Law
- 2) Code Citation: 56 Ill. Adm. Code 250
- 3) Section Numbers: 250.302  
Emergency Action:  
New Section
- 4) Statutory Authority: Implementing and authorized by Section 8.1(a) of the Child Labor Law [820 ILCS 205/8.1(a)].
- 5) Effective Date of Amendment: November 20, 2000
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.
- 7) Date Filed with the Index Department: November 20, 2000

- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency amendment provides protective standards for the employment of minors in the rapidly growing area of television, motion pictures, or related entertainment productions.
- 10) A Complete Description of the Subjects and Issues Involved: Section 8.1(a) of the Child Labor Law [820 ILCS 205/8.1(a)] charges the Department of Labor with the duty to write rules imposing reasonable conditions for the employment of minors under 16 years of age in television, motion pictures, or related entertainment productions. This emergency amendment mirrors the regulatory standards of Illinois' sister states, such as California, New York and Michigan.

11) Are there any proposed amendments to this Part Pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
250.715	Amend	24 Ill Reg. 13494, Sept. 8, 2000

In addition, these same amendments are simultaneously being proposed in this issue of the *Illinois Register*.

12) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

13) Information and questions regarding these amendments shall be directed to:

William Rolando, Deputy Director  
Illinois Department of Labor

DEPARTMENT OF LABOR  
NOTICE OF EMERGENCY AMENDMENTS

One West Old State Capitol Plaza, Room 300  
Springfield, Illinois 62701  
(217)782-1704 (telephone)  
(217)782-0596 (telefax)

The full text of the Emergency Amendments begins on the next page:



DEPARTMENT OF LABOR		DEPARTMENT OF LABOR	
NOTICE OF EMERGENCY AMENDMENTS		NOTICE OF EMERGENCY AMENDMENTS	
TITLE 56: LABOR AND EMPLOYMENT		EMERGENCY	
CHAPTER I: DEPARTMENT OF LABOR		250.305	
SUBCHAPTER B: REGULATION OF WORKING CONDITIONS		250.310	
PART 250		250.315	
ILLINOIS CHILD LABOR LAW		Applying for a Section 8.1(b) Work Hours Waiver	
SUBPART A: DEFINITIONS		Issuance of a Section 8.1(b) Work Hours Waiver	
		Section 8.1(b) Work Hours Waiver Record Keeping and Disclosure Requirements	
		SUBPART D: EMPLOYMENT CERTIFICATE ISSUING OFFICERS	
		Section 250.400	
Definition of the Act		Issuing Officers are responsible for:	
250.100		SUBPART E: RESPONSIBILITIES OF EMPLOYERS	
250.105			
250.110		The Employer shall:	
250.115		SUBPART F: APPLICABILITY OF THE ILLINOIS ADMINISTRATIVE PROCEDURE ACT	
250.120			
250.125		Section 250.500	
250.130		Revocation of Employment Certificates; Civil Penalty Assessments	
250.135			
250.140		SUBPART G: HEARING PROCESS	
250.145			
250.150		Section 250.600	
		Procedure and Time Table for Suspension or Revocation of Employment Certificates	
		250.705	
		Assessing Penalties	
		250.710	
		250.715	
		SUBPART H: EMPLOYER VIOLATIONS	
		Section 250.800	
		250.805	
		250.810	
		250.815	
		250.820	
		250.825	
		250.830	
		250.835	
		250.840	
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		250.850	
		Section 250.900	
		250.905	
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## DEPARTMENT OF LABOR

## NOTICE OF EMERGENCY AMENDMENTS

250.655 Minors Under Sixteen Appearing in Television or Motion Picture Productions

250.660 Minors: Athletic or Acrobatic Activity and Stunts

AUTHORITY: Implementing Section 8.1(a) of the Illinois Child Labor Law [820 ILCS 205/8.1(a)].

SOURCE: Adopted at 2 Ill. Reg. 22, p. 64, effective May 23, 1979; amended at 5 Ill. Reg. 902, effective January 14, 1981; codified at 8 Ill. Reg. 18483; emergency amendment at 15 Ill. Reg. 16132, effective October 25, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5335, effective March 24, 1992; emergency amendment at 18 Ill. Reg. 16699, effective October 25, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 6564, effective May 2, 1995; amended at 20 Ill. Reg. 6449, effective April 29, 1996; emergency amendment at 24 Ill. Reg. 17650, effective November 20, 2000, for a maximum of 150 days.

## SUBPART C: HOURS OF EMPLOYMENT

Section 250.302 Section 8.1(a) Work Hours Exception  
EMERGENCY

Minors nine (9) to fifteen (15) years of age employed, permitted or allowed to work in a television, motion picture, or a related entertainment production (as defined in Section 250.105 of this Part) may be permitted at the place of employment for a maximum of nine (9) hours. Such nine (9) hour periods shall consist of not more than five (5) hours of work and the requisite number of hours of schooling required by the Illinois School Code, or the school law of the minor's home state if the minor is not an Illinois resident, when the minor's school is in session. The studio teacher shall assure that the minor receives at least one (1) hour of rest and recreation. On days when the minor's school is not in session, working hours may be increased to seven (7) hours, with one (1) hour of rest and recreation.

(Source: Added by emergency rulemaking at 24 Ill. Reg. 17650, effective November 20, 2000, for a maximum of 150 days)

## DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF REFUSAL TO MEET THE OBJECTION  
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Consumer Installment Loan Act

2) Code Citation: 38 Ill. Adm. Code 110

3) <u>Section Numbers:</u>	<u>Action:</u>
110.300	New Section
110.310	New Section
110.320	New Section
110.330	New Section
110.340	New Section
110.350	New Section
110.360	New Section
110.370	New Section
110.380	New Section
110.390	New Section
110.400	New Section
110.401	New Section

4) Date Notice of Proposed Rules Published in the Register: August 11, 2000,  
24 Ill. Reg. 11717

5) Date JCAR Statement of Objection Published in the Register: December 1,  
2000, 24 Ill. Reg. 17691

6) Summary of Action Taken by the Agency: Agency refuses to modify proposed rulemaking.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

**NOTICES:** Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

*It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Capital Development Board

1. Bonding Guidelines (71 Ill Adm Code 50)
  - First Notice Published: 24 Ill Reg 14295 - 9/29/00
  - Expiration of Second Notice: 12/30/00
2. Bonding Guidelines (Repealer) (71 Ill Adm Code 50)
  - First Notice Published: 24 Ill Reg 14286 - 9/29/00
  - Expiration of Second Notice: 12/30/00

Central Management Services

3. Pay Plan (80 Ill Adm Code 310)
  - First Notice Published: 24 Ill Reg 10030 - 7/14/00
  - Expiration of Second Notice: 1/4/01

Children and Family Services

4. Placement and Visitation Services (89 Ill Adm Code 301)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

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-First Notice Published: 24 Ill Reg 6473 - 4/21/00  
-Expiration of Second Notice: 12/27/00

Commerce and Community Affairs

5. Industrial Training Program (56 Ill Adm Code 2650)
  - First Notice Published: 24 Ill Reg 8685 - 6/30/00
  - Expiration of Second Notice: 12/29/00

Comptroller

6. Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill Adm Code 330)
  - First Notice Published: 24 Ill Reg 14124 - 9/22/00
  - Expiration of Second Notice: 12/23/00

Employment Security

7. Determination of Unemployment Contributions (56 Ill Adm Code 2770)
  - First Notice Published: 24 Ill Reg 13759 - 9/15/00
  - Expiration of Second Notice: 12/16/00

Environmental Protection Agency

8. Alternate Fuels Program (35 Ill Adm Code 275)
  - First Notice Published: 24 Ill Reg 7843 - 6/2/00
  - Expiration of Second Notice: 12/22/00

9. Procedures for Collection of Review and Evaluation Services Costs (Repealer) (35 Ill Adm Code 859)
  - First Notice Published: 24 Ill Reg 13767 - 9/15/00
  - Expiration of Second Notice: 1/4/01

10. State Remedial Action Priorities List (Repealer) (35 Ill Adm Code 860)
  - First Notice Published: 24 Ill Reg 13776 - 9/15/00
  - Expiration of Second Notice: 1/4/01

Farm Development Authority

11. Illinois Farm Development Authority (8 Ill Adm Code 1400)
  - First Notice Published: 24 Ill Reg 13088 - 9/1/00
  - Expiration of Second Notice: 12/20/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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Human Services

12. Crisis Assistance (89 Ill Adm Code 116)  
-First Notice Published: 24 Ill Reg 11460 - 8/4/00  
-Expiration of Second Notice: 1/23/01

Insurance

13. Medical Malpractice Data Base (50 Ill Adm Code 928)  
-First Notice Published: 24 Ill Reg 10558 - 7/21/00  
-Expiration of Second Notice: 1/3/01

14. Minimum Standards for Individual and Group Medicare Supplement Insurance (50 Ill Adm Code 208)

-First Notice Published: 24 Ill Reg 10576 - 7/21/00  
-Expiration of Second Notice: 12/14/00

15. Privacy of Personal Information (50 Ill Adm Code 4001)

-First Notice Published: 24 Ill Reg 14137 - 9/22/00  
-Expiration of Second Notice: 12/27/00

16. Small Employer Carrier Actuarial Certification and Documentation Requirements (50 Ill Adm Code 5101)

-First Notice Published: 24 Ill Reg 13139 - 9/1/00  
-Expiration of Second Notice: 12/28/00

Labor

17. Rules of Procedures in Administrative Hearings (56 Ill Adm Code 120)

-First Notice Published: 24 Ill Reg 13529 - 9/8/00  
-Expiration of Second Notice: 1/4/01

18. Statewide Displaced Homemakers Program (56 Ill Adm Code 365)

-First Notice Published: 24 Ill Reg 13546 - 9/8/00  
-Expiration of Second Notice: 1/4/01

tel 19.

Toxic Substances Disclosure to Employees (56 Ill Adm Code 205)

-First Notice Published: 24 Ill Reg 13555 - 9/8/00  
-Expiration of Second Notice: 1/4/01

20. Minimum Wage Law (56 Ill Adm Code 210)

-First Notice Published: 24 Ill Reg 13499 - 9/8/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

-Expiration of Second Notice: 1/4/01

21. Illinois Child Labor Law (56 Ill Adm Code 250)  
-First Notice Published: 24 Ill Reg 13494 - 9/8/00  
-Expiration of Second Notice: 1/4/01

22. Day Labor Services Act (56 Ill Adm Code 260)  
-First Notice Published: 24 Ill Reg 13486 - 9/8/00  
-Expiration of Second Notice: 1/4/01

23. Health and Safety (56 Ill Adm Code 350)  
-First Notice Published: 24 Ill Reg 13490 - 9/8/00  
-Expiration of Second Notice: 1/4/01

24. Whistleblower Protection (56 Ill Adm Code 353)  
-First Notice Published: 24 Ill Reg 13560 - 9/8/00  
-Expiration of Second Notice: 1/4/01

25. Rules and Regulations Relating to the Operation of Private Employment Agencies (68 Ill Adm Code 680)

-First Notice Published: 24 Ill Reg 13508 - 9/8/00  
-Expiration of Second Notice: 1/4/01

26. Nurse Agency Licensing Act (68 Ill Adm Code 690)

-First Notice Published: 24 Ill Reg 13504 - 9/8/00  
-Expiration of Second Notice: 1/4/01

Natural Resources

27. Disabled Hunting Method Authorizations (17 Ill Adm Code 760)  
-First Notice Published: 24 Ill Reg 13814 - 9/15/00  
-Expiration of Second Notice: 12/16/00

28. Dog Training on Department-Owned or -Managed Sites (17 Ill Adm Code 950)

-First Notice Published: 24 Ill Reg 14141 - 9/22/00  
-Expiration of Second Notice: 12/23/00

Pollution Control Board

29. General Rules (35 Ill Adm Code 101)  
-First Notice Published: 24 Ill Reg 5225 - 3/31/00  
-Expiration of Second Notice: 12/17/00

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

30. General Rules (Repealer) (35 Ill Adm Code 101)  
-First Notice Published: 24 Ill Reg 5289 - 3/31/00  
-Expiration of Second Notice: 12/17/00
31. Regulatory and Informational Hearings and Proceedings (Repealer) (35 Ill Adm Code 102)  
-First Notice Published: 24 Ill Reg 5504 - 3/31/00  
-Expiration of Second Notice: 12/17/00
32. Regulatory and Informational Hearings and Proceedings (35 Ill Adm Code 102)  
-First Notice Published: 24 Ill Reg 5531 - 3/31/00  
-Expiration of Second Notice: 12/17/00
33. Enforcement Proceedings (35 Ill Adm Code 103)  
-First Notice Published: 24 Ill Reg 5182 - 3/31/00  
-Expiration of Second Notice: 12/17/00
34. Enforcement Proceedings (Repealer) (35 Ill Adm Code 103)  
-First Notice Published: 24 Ill Reg 5198 - 3/31/00  
-Expiration of Second Notice: 12/17/00
35. Variances (Repealer) (35 Ill Adm Code 104)  
-First Notice Published: 24 Ill Reg 5591 - 3/31/00  
-Expiration of Second Notice: 12/17/00
36. Regulatory Relief Mechanisms (35 Ill Adm Code 104)  
-First Notice Published: 24 Ill Reg 5563 - 3/31/00  
-Expiration of Second Notice: 12/17/00
37. Appeals of Final Decisions of State Agencies (35 Ill Adm Code 105)  
-First Notice Published: 24 Ill Reg 5473 - 3/31/00  
-Expiration of Second Notice: 12/17/00
38. Permits (Repealer) (35 Ill Adm Code 105)  
-First Notice Published: 24 Ill Reg 5495 - 3/31/00  
-Expiration of Second Notice: 12/17/00
39. Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill Adm Code 106)  
-First Notice Published: 24 Ill Reg 5377 - 3/31/00  
-Expiration of Second Notice: 12/17/00

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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10:30 A.M.  
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40. Hearings Pursuant to Specific Rules (Repealer) (35 Ill Adm Code 106)  
-First Notice Published: 24 Ill Reg 5326 - 3/31/00  
-Expiration of Second Notice: 12/17/00
41. Petition to Review Pollution Control Facility Siting Decisions (35 Ill Adm Code 107)  
-First Notice Published: 24 Ill Reg 5463 - 3/31/00  
-Expiration of Second Notice: 12/17/00
42. Office of the State Fire Marshal Appeals (Repealer) (35 Ill Adm Code 107)  
-First Notice Published: 24 Ill Reg 5442 - 3/31/00  
-Expiration of Second Notice: 12/17/00
43. Administrative Citations (35 Ill Adm Code 108)  
-First Notice Published: 24 Ill Reg 5173 - 3/31/00  
-Expiration of Second Notice: 12/17/00
44. Identification and Protection of Trade Secrets (Repealer) (35 Ill Adm Code 120)  
-First Notice Published: 24 Ill Reg 5411 - 3/31/00  
-Expiration of Second Notice: 12/17/00
45. Identification and Protection of Trade Secrets and Other Non-Disclosable Information (35 Ill Adm Code 130)  
-First Notice Published: 24 Ill Reg 5426 - 3/31/00  
-Expiration of Second Notice: 12/17/00
46. Tax Certifications (35 Ill Adm Code 125)  
-First Notice Published: 24 Ill Reg 5555 - 3/31/00  
-Expiration of Second Notice: 12/17/00
47. Definitions and General Provisions (35 Ill Adm Code 211)  
-First Notice Published: 24 Ill Reg 11473 - 8/4/00  
-Expiration of Second Notice: 12/30/00
48. Nitrogen Oxides Emissions (35 Ill Adm Code 217)  
-First Notice Published: 24 Ill Reg 11493 - 8/4/00  
-Expiration of Second Notice: 12/30/00
49. Mobile Sources (35 Ill Adm Code 240)  
-First Notice Published: 24 Ill Reg 14146 - 9/22/00  
-Expiration of Second Notice: 12/30/00



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

50. Tiered Approach to Corrective Action Objectives (35 Ill Adm Code 742)  
-First Notice Published: 24 Ill Reg 11761 - 8/11/00  
-Expiration of Second Notice: 12/30/00

Professional Regulation

51. Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)  
-First Notice Published: 24 Ill Reg 12366 - 8/18/00  
-Expiration of Second Notice: 1/4/01

Public Health

52. Hospital Licensing Requirements (77 Ill Adm Code 250)  
-First Notice Published: 24 Ill Reg 12405 - 8/18/00  
-Expiration of Second Notice: 12/27/00

53. Control of Communicable Diseases Code (77 Ill Adm Code 690)  
-First Notice Published: 24 Ill Reg 6246 - 4/14/00  
-Expiration of Second Notice: 12/27/00

Revenue

54. Property Tax Code (86 Ill Adm Code 110)  
-First Notice Published: 24 Ill Reg 13850 - 9/15/00  
-Expiration of Second Notice: 12/17/00

55. Retailers' Occupation Tax (86 Ill Adm Code 130)  
-First Notice Published: 24 Ill Reg 13617 - 9/8/00  
-Expiration of Second Notice: 12/29/00

56. Telecommunications Excise Tax (86 Ill Adm Code 495)  
-First Notice Published: 24 Ill Reg 13631 - 9/8/00  
-Expiration of Second Notice: 12/30/00

57. Payment of Taxes by Electronic Funds Transfer (86 Ill Adm Code 750)  
-First Notice Published: 24 Ill Reg 13611 - 9/8/00  
-Expiration of Second Notice: 12/16/00

Secretary of State

58. Issuance of Licenses (92 Ill Adm Code 1030)  
-First Notice Published: 24 Ill Reg 14414 - 9/29/00  
-Expiration of Second Notice: 12/31/00

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

Student Assistance Commission

59. Arthur F. Quern Information Technology Grant Program (23 Ill Adm Code 2740)  
-First Notice Published: 24 Ill Reg 13856 - 9/15/00  
-Expiration of Second Notice: 12/30/00

Teachers' Retirement System

60. The Administration and Operation of the Teachers' Retirement System (80 Ill Adm Code 1650)  
-First Notice Published: 24 Ill Reg 14634 - 10/6/00  
-Expiration of Second Notice: 1/4/01

Transportation

61. Safety Fitness Procedures (92 Ill Adm Code 385)  
-First Notice Published: 24 Ill Reg 13374 - 9/1/00  
-Expiration of Second Notice: 12/28/00

62. Procedures and Enforcement (92 Ill Adm Code 386)  
-First Notice Published: 24 Ill Reg 13364 - 9/1/00  
-Expiration of Second Notice: 12/28/00

63. Motor Carrier Safety Regulations: General (92 Ill Adm Code 390)  
-First Notice Published: 24 Ill Reg 13332 - 9/1/00  
-Expiration of Second Notice: 12/28/00

64. Qualification of Drivers (92 Ill Adm Code 391)  
-First Notice Published: 24 Ill Reg 13369 - 9/1/00  
-Expiration of Second Notice: 12/28/00

65. Driving of Commercial Motor Vehicles (92 Ill Adm Code 392)  
-First Notice Published: 24 Ill Reg 13321 - 9/1/00  
-Expiration of Second Notice: 12/28/00

66. Parts and Accessories Necessary for Safe Operation (92 Ill Adm Code 393)  
-First Notice Published: 24 Ill Reg 13360 - 9/1/00  
-Expiration of Second Notice: 12/28/00

67. Hours of Service of Drivers (92 Ill Adm Code 395)  
-First Notice Published: 24 Ill Reg 13324 - 9/1/00

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
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DECEMBER 12, 2000

- Expiration of Second Notice: 12/28/00
68. Inspection, Repair and Maintenance (92 Ill Adm Code 396)  
-First Notice Published: 24 Ill Reg 13329 - 9/1/00  
-Expiration of Second Notice: 12/28/00
69. Transportation of Hazardous Materials, Driving and Parking (92 Ill Adm Code 397)  
-First Notice Published: 24 Ill Reg 13381 - 9/1/00  
-Expiration of Second Notice: 12/28/00
- Veterans' Affairs
70. Rules Governing Payment for Cartage and Erection of Headstone, Marker, or Memorial Marker (95 Ill Adm Code 102)  
-First Notice Published: 24 Ill Reg 6559 - 4/21/00  
-Expiration of Second Notice: 12/28/00

71. Duties of the Superintendents of the Illinois Veterans' Homes (95 Ill Adm Code 106)  
-First Notice Published: 24 Ill Reg 8825 - 6/30/00  
-Expiration of Second Notice: 12/28/00

72. Rules Governing the Illinois Veterans Scholarship (Repealer) (95 Ill Adm Code 110)  
-First Notice Published: 24 Ill Reg 7646 - 5/26/00  
-Expiration of Second Notice: 12/28/00

73. Vietnam Veterans Act Program (Repealer) (95 Ill Adm Code 117)  
-First Notice Published: 24 Ill Reg 7950 - 6/9/00  
-Expiration of Second Notice: 12/28/00

74. Illinois Vietnam Veterans Memorial Grant (Repealer) (95 Ill Adm Code 119)  
-First Notice Published: 24 Ill Reg 7187 - 5/12/00  
-Expiration of Second Notice: 12/28/00

75. Korean War Memorial Construction Fund (Repealer) (95 Ill Adm Code 122)  
-First Notice Published: 24 Ill Reg 6555 - 4/21/00  
-Expiration of Second Notice: 12/28/00

**EMERGENCY AND PEREMPTORY RULEMAKINGS**

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

Central Management Services

76. Conditions of Employment (80 Ill Adm Code 303) (Emergency)  
-Notice Published: 24 Ill Reg 16694 - 11/13/00
77. Pay Plan (80 Ill Adm Code 310) (Peremptory)  
-Notice Published: 24 Ill Reg 16700 - 11/13/00
78. Pay Plan (80 Ill Adm Code 310) (Peremptory)  
-Notice Published: 24 Ill Reg 17600 - 12/1/00

Commerce and Community Affairs

79. Eliminate The Digital Divide Program (14 Ill Adm Code 546) (Emergency)  
-Notice Published: 24 Ill Reg 17361 - 11/17/00

Commerce Commission

80. Standards of Service Applicable to Wireless 9-1-1 Emergency Systems (83 Ill Adm Code 728) (Emergency)  
-Notice Published: 24 Ill Reg 16349 - 11/3/00

Comptroller

81. Claim Eligible To Be Offset (74 Ill Adm Code 285) (Emergency)  
-Notice Published: 24 Ill Reg 17371 - 11/17/00

Education

82. Standards for Certification in Special Education (23 Ill Adm Code 28) (Peremptory)  
-Notice Published: 24 Ill Reg 16738 - 11/13/00

Revenue

83. Income Tax (86 Ill Adm Code 100) (Emergency)  
-Notice Published: 24 Ill Reg 17585 - 12/1/00

Transportation

84. Inspection Procedures for Type I School Buses 992 Ill Adm Code 441) (Emergency)  
-Notice Published: 24 Ill Reg 16366 - 11/3/00

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
DECEMBER 12, 2000

85. Minimum Safety Standards for Construction of Type I School Buses (92 Ill Adm Code 440) (Emergency)  
-Notice Published: 24 Ill Reg 16391 - 11/3/00

## AGENCY RESPONSES

Human Services

86. Medicaid Community Mental Health Services Program (59 Ill Adm Code 132)

Revenue

87. Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (86 Ill Adm Code 530)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 21, 2000 through November 27, 2000 and have been scheduled for review by the Committee at its December 12, 2000 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/4/01	Teachers' Retirement System, The Administration and Operation of the Teachers' Retirement System (80 Ill Adm Code 1650)	10/6/00 24 Ill Reg 14634	12/12/00
1/4/01	Environmental Protection Agency, State Remedial Action Priorities List (Repealer) (35 Ill Adm Code 860)	9/15/00 24 Ill Reg 13776	12/12/00
1/4/01	Environmental Protection Agency, Procedures for Collection of Review and Evaluation Services Costs (Repealer) (35 Ill Adm Code 859)	9/15/00 24 Ill Reg 13767	12/12/00
1/4/01	Department of Central Management Services, Pay Plan (80 Ill Adm Code 310)	7/14/00 24 Ill Reg 10030	12/12/00
1/4/01	Department of Labor, Day Labor Services Act (56 Ill Adm Code 260)	9/8/00 24 Ill Reg 13486	12/12/00
1/4/01	Department of Labor, Health and Safety (56 Ill Adm Code 350)	9/8/00 24 Ill Reg 13490	12/12/00
1/4/01	Department of Labor, Illinois Child Labor Law (56 Ill Adm Code 250)	9/8/00 24 Ill Reg 13494	12/12/00
1/4/01	Department of Labor, Minimum Wage Law (56 Ill Adm Code 210)	9/8/00 24 Ill Reg 13499	12/12/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

1/4/01	Department of Labor, Nurse Agency Licensing Act (68 Ill Adm Code 690)	9/8/00 24 Ill Reg 13504	12/12/00
1/4/01	Department of Labor, Rules and Regulations Relating to the Operation of Private Employment Agencies (68 Ill Adm Code 680)	9/8/00 24 Ill Reg 13508	12/12/00
1/4/01	Department of Labor, Rules of Procedure in Administrative Hearings (56 Ill Adm Code 120)	9/8/00 24 Ill Reg 13529	12/12/00
1/4/01	Department of Labor, Statewide Displaced Homemakers Program (56 Ill Adm Code 365)	9/8/00 24 Ill Reg 13546	12/12/00
1/4/01	Department of Labor, Toxic Substances Disclosure to Employees (56 Ill Adm Code 205)	9/8/00 24 Ill Reg 13555	12/12/00
1/4/01	Department of Labor, Whistleblower Protection (56 Ill Adm Code 353)	9/8/00 24 Ill Reg 13560	12/12/00
1/4/01	Department of Professional Regulation, Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)	8/18/00 24 Ill Reg 12366	12/12/00

## PROCLAMATIONS

## 2000-590

## FAMILY LIFE WEEK

WHEREAS, the Scottish Rite, Valley of Peoria, will celebrate Family Life Week November 19-25, 2000, at the Scottish Rite Cathedral; and  
 WHEREAS, for many years, the Scottish Rite, Valley of Peoria, has sponsored family-centered activities during Family Life Week and other times throughout the year; and

WHEREAS, the Scottish Rite Masonic Family Life program is intended to strengthen all families within our community, and this year's program urges everyone to "Honor The Past And Celebrate The Future" through family life; and  
 WHEREAS, Bob Larson of WISD-TV will be the Master of Ceremonies for this year's Family Life Week, which honors both Masonic and community families; and  
 WHEREAS, on November 24, 2000, the Scottish Rite, Valley of Peoria, will have a float in the annual Santa parade, honoring the Family and Counseling Services "Family of the Year";

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 19-25, 2000, as FAMILY LIFE WEEK in Illinois.

Issued by the Governor November 16, 2000.

Filed by the Secretary of State November 22, 2000.

## 2000-591

## HAGERTY IRISH HOUR DAY

WHEREAS, the Hagerty Irish Hour was started April 6, 1951, by the late John Hagerty Sr.; and

WHEREAS, the Hagerty Irish Hour tradition has been carried on by three Hagerty children: Denise Hagerty, CEO of the American Medical Association, Jack Hagerty, lawyer, and Ed Hagerty, Senior Vice-President of Jefferies & Company; and

WHEREAS, according to the Hagerty family, the Hagerty Irish Hour is the longest running Irish radio show in the world; and

WHEREAS, the Hagerty Irish Hour has interviewed many world leaders, including First Minister David Trimble, former Prime Minister of Ireland John Bruton, former President of Ireland Mary Robinson, Secretary of State for Northern Ireland Marjorie Mowlam, and Secretary of State for Northern Ireland Peter Mandelson; and

WHEREAS, the Hagerty Irish Hour has received many awards, including the Irish American Alliance Honoree of the Year and Galway Fellowship Honoree of the Year; and

WHEREAS, the goal of the Hagerty Irish Hour is to promote Irish heritage, culture, and events within the Irish and Irish-American communities and to help support charitable events;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 6, 2001, as HAGERTY IRISH HOUR DAY in Illinois.

Issued by the Governor November 16, 2000.

Filed by the Secretary of State November 22, 2000.

## 2000-592

## HARRY KEMPF DAY

WHEREAS, in 1984, Guenter and Harry Kempf founded the Chicago Brauhaus in Lincoln Square, which draws many restaurant patrons, shoppers and visitors to the area each year; and

WHEREAS, Guenter and Harry Kempf rebuilt their business after the fire that destroyed the Treffpunkt Restaurant, showing strong support to the Lincoln Square community; and

WHEREAS, Harry Kempf has been a long-time, strong supporter of the Lincoln Square Chamber of Commerce and the Lincoln Square community; and

WHEREAS, Harry Kempf has also been a strong supporter of the various social and cultural German American organizations of the Chicago area; and

WHEREAS, the Giddings Plaza was named Honorary Guenter & Harry Kempf Plaza in 1999; and

WHEREAS, the Chicago Brauhaus received the "Business of the Decade" award from the Lincoln Square Chamber of Commerce in 1999; and

WHEREAS, December 5th is the anniversary of Harry Kempf's debut on the earth;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 5, 2000, as HARRY KEMPF DAY in Illinois.

Issued by the Governor November 16, 2000.

Filed by the Secretary of State November 22, 2000.

#### 2000-593

##### MILTON H. GRAY DAY

WHEREAS, Milton H. Gray has been a senior partner at Altheimer & Gray since 1960, concentrating his practice in corporate, financial, and accounting law with a special emphasis on SEC matters; and

WHEREAS, as a student, Milton H. Gray graduated magna cum laude (Order of the Coif) from Northwestern School of Law in 1934, and thereafter maintained a strong association with the University including establishing scholarships and serving as President of the John Wigmore Club of his law school; and

WHEREAS, Milton H. Gray is active in a myriad of professional and civic causes, which include serving as President of the Chicago Bar Association, a prominent member of the American Bar Association of Lawyers, and the American Judicature Society; and

WHEREAS, Milton H. Gray has had a lifetime involvement with the Boy Scouts of America movement, receiving numerous scout awards, as well as co-founding the Gray Sea Scout Base in Israel with his two brothers to honor his parents; and

WHEREAS, Milton H. Gray is and has been a devoted family man as a spouse, father, and grandfather; and

WHEREAS, we honor Milton H. Gray on the occasion of his 90th birthday;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 2, 2000, as MILTON H. GRAY DAY in Illinois.

Issued by the Governor November 16, 2000.

Filed by the Secretary of State November 22, 2000.

#### 2000-594

##### PEARL HARBOR REMEMBRANCE DAY

WHEREAS, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl

Harbor, Hawaii; and

WHEREAS, more than 2,000 United States citizens were killed, and more than 1,000 wounded in the attack on Pearl Harbor; and

WHEREAS, the attack on Pearl Harbor marked the entry of the United States into World War II; and

WHEREAS, the veterans of World War II, and all other people of the United States commemorate December 7th in the remembrance of the attack on Pearl Harbor; and

WHEREAS, commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the United States Armed Forces during World War II;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 7, 2000, as PEARL HARBOR REMEMBRANCE DAY in Illinois.

Issued by the Governor November 17, 2000.

Filed by the Secretary of State November 22, 2000.



Rules acted upon during the calendar quarter from Issue 43 through Issue 53 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or [jralala@state.il.us](mailto:jralala@state.il.us) on the Internet.

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